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NOTICE

The undermentioned Gazettes of India Extraordinary were published upto the 11th April 1953 :—

Issue No.	No. and date	Issued by	Subject
74	S. R. O. 629, dated the 31st March 1953.	Office of the Secretary to the President	Order made by the President for general information.
75	S. R. O. 630, dated the 4th April 1953.	Ministry of Commerce & Industry	Suspension by the Central Govt. indefinitely the operation of Chapter II of the Indian Tea Control Act. 1938 (VIII of 1938).
76	S. R. O. 631, dated the 4th April 1953.	Ministry of Food & Agriculture	Amendment made in the Cotton seed, (Control) Order, 1952.
77	S. R. O. 632, dated the 30th March 1953.	Election Commission, India.	Election Petition No. 220 of 1952 and Election Case No. 8 of 1952.
	S. R. O. 633, dated the 30th March 1953.	Ditto.	Election Petition No. 3 of 1952.
78	S. R. O. 634, dated the 2nd April 1953.	Ditto.	Election Petition No. 4/104 of 1952.
79	S. R. O. 684, dated the 9th April 1953.	Ditto.	Appointment made by the Election Commission of Shri G. P. Bhatt., District Judge, Nagpur, to be the Chairman of the Election Tribunal.
80	S. R. O. 685, dated the 10th April 1953	Ministry of Home Affairs.	The East Punjab Ayurvedic and Unani Practitioners (Amendment) Act, 1952.
81	S. R. O. 686, dated the 10th April 1953	Ministry of Food & Agriculture	Amendment made in the Cottonseed (Control) Order, 1952.

Copies of the Gazettes Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these Gazettes.

PART II—Section 3

Statutory Rules and Orders issued by the Ministries of the Government of India (other than the Ministry of Defence) and Central Authorities (other than the Chief Commissioners).

ELECTION COMMISSION, INDIA

New Delhi, the 7th April 1953

S.R.O. 698.—It is hereby notified for general information that the disqualifications under clause (c) of section 7 and section 143 of the Representation of the People Act, 1951 (XLIII of 1951), incurred by the person whose name and address are given below, as notified under notification No. AS-P/52(6), dated the 13th May, 1952, have been removed by the Election Commission in exercise of the powers conferred on it by the said clause and section 144 of the said Act respectively:—

Shri Pabitra Kumar Sinha, Santipara, P. O. Rehabari, Dibrugarh, District Lakhimpur (Assam).

[No. AS-P/52(11)/2033.]

P. N. SHINGHAL, Secy.

MINISTRY OF LAW

New Delhi, the 8th April 1953

S.R.O. 699.—In pursuance of clause (1) of article 239 and clause (1) of article 243 of the Constitution, and in supersession of the notification of the Government of India in the late Home Department No. 204/37-Judl., dated the 5th May, 1938, and in partial modification of the notification of the Government of India in the Ministry of States No. S.R.O. 460, dated the 24th August, 1950, in so far as it relates to the Civil Procedure Code, 1908 (Act V of 1908), the President hereby directs that the functions assigned to the Central Government by Order XXVII of the First Schedule to the Code of Civil Procedure, 1908 (Act V of 1908) shall be discharged by the Lieutenant-Governor or the Chief Commissioner, as the case may be, of every Part C State, except the State of Manipur, in respect of such Part C State, and by the Chief Commissioner of the Andaman and Nicobar Islands in respect of those Islands.

[No. F.36-II/51-L.]

New Delhi, the 9th April 1953

S.R.O. 700.—The following Order, known as the Reciprocal Enforcement of Judgments (India) Order, 1953, issued by the Government of the United Kingdom of Great Britain and Northern Ireland in the matter relating to reciprocity between India and the United Kingdom as regards the execution of decrees of civil courts is published for general information:—

"1953 No. 192

JUDGMENTS

The Reciprocal Enforcement of Judgments (India) Order, 1953.

Made.....11th February, 1953.

Coming into operation 1st March, 1953.

At the Court at Buckingham Palace, the 11th day of February, 1953.

PRESENT

The Queen's Most Excellent Majesty in Council.

Whereas by virtue of Section 1 of the Foreign Judgments (Reciprocal Enforcement), Act, 1933 (a) (herein referred to as "the said Act") and of Article (1) of the Reciprocal Enforcement of Judgments (General Application to His Majesty's Dominions etc.) Order, 1933 (b), Her Majesty may extend Part I of the said Act to any foreign country and to any Dominion:

(a) 23 & 24 Geo. 5, c. 13. (b) S. R. & O. 1933/1073; Rev. XI, p. 163; 1933, p. 953.

And whereas by Section 44A of an Act of the Indian Legislature entitled the Code of Civil Procedure, which extends to the territories of the Republic of India named in the Schedule hereto, a decree of any of the Superior Courts of the United Kingdom may be executed in the said territories:

And whereas the said Act was extended to British India by the Reciprocal Enforcement of Judgments (British India and British Burma) Order, 1938:

And whereas it is expendient to apply the said Act to the said territories named in the Schedule hereto:

Now, therefore, Her Majesty, by virtue and in exercise of Her powers under the said Act and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1. This Order may be cited as the Reciprocal Enforcement of Judgments (India) Order, 1953, and shall come into operation on the first day of March, 1953.

2. The Reciprocal Enforcement of Judgments (British India and British Burma) Order, 1938(c), is hereby repealed.

3. Part I of the said Act shall extend to the territories of the Republic of India named in the Schedule hereto.

4. The following Courts of the said territories shall be deemed Superior Courts of the said territories for the purposes of Part I of the said Act, that is to say:—

(a) All High Courts and Judicial Commissioners' Courts.

(b) All District Courts.

(c) All other Courts whose civil jurisdiction is subject to no pecuniary limit provided that the Judgment sought to be registered under the said Act is sealed with a seal showing that the jurisdiction of the Courts is subject to no pecuniary limit.

W. C. AGNEW.

THE SCHEDULE

The States of Assam (except the Tribal Areas), Bihar, Bombay Madhya Pradesh, Madras (except the Scheduled Areas), Orissa, Punjab, Uttar Pradesh, West Bengal, Hyderabad, Madhya Bharat, Mysore, Patiala and East Punjab States Union, Rajasthan, Saurashtra, Travancore-Cochin, Ajmer, Bhopal, Bilaspur, Coorg, Delhi, Himachal Pradesh, Kutch, Tripura, Vindhya Pradesh, the Andaman and Nicobar Islands.

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport).

The purpose of the Order is to extend the application of the Foreign Judgments (Reciprocal Enforcement) Act, 1933, to all the territories of India named in the Schedule appended to the Order, and to repeal the Order previously made in respect of British India and British Burma."

[No. F. 34-I/52-L.]

RUSTOM S. GAE, Dy. Secy.

MINISTRY OF HOME AFFAIRS

New Delhi, the 11th April 1953

S.R.O. 701.—In exercise of the powers conferred by section 27 of the Indian Arms Act, 1878 (XI of 1878), the Central Government hereby exempts Shri M. M. Khurana, Indian Foreign Service from the operation of the prohibitions and directions contained in section 5 of the said Act in respect of one .455 bore Webley and Scott Revolver and connected ammunition.

[No. 9/17/53-Police(I).]

(c) S.R.& O. 1938/1363; 1938I, p.1601.

New Delhi, the 14th April 1953

S.R.O. 702.—In exercise of the powers conferred by section 27 of the Indian Arms Act, 1878 (XI of 1878), the Central Government hereby exempts Mr. Douglas Ensminger, the Ford Foundation Representative in India, from the operation of the prohibitions and directions contained in section 6 of the said Act in respect of one ·303 rifle No. 5599.

[No. 9/18/53-Police(I).]

U. K. GHOSHAL, Dy. Secy.

MINISTRY OF EXTERNAL AFFAIRS

New Delhi, the 11th April 1953

THE ABDUCTED PERSONS RECOVERY RULES, 1953

S.R.O. 703.—In exercise of the powers conferred by section 10 of the Abducted Persons (Recovery and Restoration) Act, 1949 (LXV of 1949), the Central Government hereby makes the following rules:—

1. **Short Title.**—These rules may be called the Abducted Persons Recovery Rules, 1953.

2. **Definition.**—In these rules, "the Act" means the Abducted Persons (Recovery and Restoration) Act, 1949 (LXV of 1949).

3. **Central Government to appoint persons to be in charge of camps.**—Every camp established under the Act shall be under the charge of a person appointed by the Central Government in this behalf, and the person in charge shall be responsible for the maintenance of health and good order in the camp and of harmonious relations among the persons detained therein.

4. **Provision for safety, shelter, clothing, etc.**—Adequate arrangements shall be made in every camp for the safety and protection of all persons detained therein in pursuance of the Act, and every person so detained shall be provided with accommodation, food, clothing and medical aid in accordance with such instructions as the Central Government may issue in this behalf.

5. **Power to transfer abducted persons from one camp to another.**—Subject to any general or special orders which may be issued by the Central Government in this behalf, it shall be lawful for the person in charge of a camp in any State to transfer any abducted person detained therein to another camp whether within or without the State.

6. **How abducted persons are to be escorted.**—Whenever an abducted person who is a female has to be removed from one place to another, whether from the place of recovery to the camp or from one camp to another camp or to any other place for the purpose of restoration under the Act, she shall, whenever possible, be escorted by another woman and also by an officer not below the rank of an Assistant Sub-Inspector of Police.

7. **Restoration of abducted persons to their relatives where no dispute exists.**—In any case where no dispute exists as to the person temporarily detained in a camp being an abducted person, it shall be lawful for an officer authorised in this behalf, subject to the provisions contained in section 6 of the Act, to restore the abducted person to his or her relatives, or to hand over the abducted person to any other person whether within or without India.

8. **Composition of the Tribunal.**—The Tribunal for deciding any question under section 6 of the Act shall consist of two officers specially appointed for the purpose by the Central Government, and the constitution of the Tribunal shall be notified in the Official Gazette.

9. **Procedure of Tribunal.**—(1) The Tribunal shall, subject to the provisions hereinafter contained, have power to regulate its own procedure, including the fixing of the place, date and time of its sittings.

(2) In the disposal of any matter coming before it, the Tribunal shall not be bound by any law relating to civil or criminal procedure or evidence but shall follow such procedure as will enable it to arrive at a proper decision, and shall give to every person interested who may appear before it a reasonable opportunity of being heard:

Provided that no legal practitioner shall be entitled to appear on behalf of any person in any matter before the Tribunal.

10. **Medical examination of abducted persons.**—Every abducted person shall be medically examined and treated, if necessary, before restoration.

11. **Procedure of Tribunal in case of abducted children.**—(1) Where the child of an abducted person has been recovered along with the abducted person, the Tribunal shall, having due regard to the welfare of the child, dispose of the case of such child, as if the child had been separately recovered.

(2) Where any child born during the period of abduction is found to be abandoned by its mother, the Tribunal shall specify the person to whom it is to be restored or handed over and, pending such restoration or handing over, shall specify the person by whom and the manner in which the abducted child is to be looked after:

Provided that if any such child is not so restored to the person from whose custody it was recovered, it shall be sent to such home recognised by the Central Government as the Tribunal thinks fit to specify.

12. **Review or revision of decisions of Tribunal.**—Any abducted person or any person in charge of a camp or any other person interested in the matter may apply to the Central Government for reviewing or revising any decision of the Tribunal within fifteen days from the date on which such decision was communicated to the abducted person or the person in charge, as the case may be, and in the case of any other person interested, within fifteen days from the date of the decision.

[No. D.4456-CAP(AP)/53.]

I. S. CHOPRA, Joint Secy.

MINISTRY OF FINANCE
(Department of Economic Affairs)

INSURANCE

New Delhi, the 18th April 1953

S.R.O. 704.—Whereas the Central Government, after considering the report of the Controller of Insurance, is of opinion that it is necessary to appoint an Administrator to manage the affairs of the Mysore Insurance Company Limited, Bangalore, with its registered office at Bangalore,

Now, therefore, in exercise of the powers conferred by sub-section (2) of Section 52A of the Insurance Act, 1938 (IV of 1938), the Central Government hereby appoints with effect from the 18th April 1953, Shri P. S. Sundaram, M.A., F.I.A., C/O United India Life office, Post Box No. 281, Madras, as Administrator to manage the affairs of the said Mysore Insurance Company Limited under the direction and control of the Controller of Insurance and directs that the said Administrator shall receive such remuneration, payable out of the funds of the Mysore Insurance Company Limited, as may be fixed by the Government.

[No. 100(21)/ICA-53.]

B. K. KAUL, Dy. Secy.

MINISTRY OF FINANCE (REVENUE DIVISION)

CENTRAL EXCISE

New Delhi, the 18th April 1953

S.R.O. 705.—In exercise of the powers conferred by section 37 of the Central Excises and Salt Act, 1944 (I of 1944), the Central Government hereby directs that the following further amendments shall be made in the Central Excise Rules, 1944, namely:—

In clause (ii) (A) of Rule 2 of the said Rules—

(a) in sub-clause (g) after the word "Rajasthan" the words "excluding the Tehsils of Sironj and Latteri" shall be inserted;

(b) in sub-clause (j) for the words "and Bhopal" the words "Bhopal and the Tehsils of Sironj and Latteri in the State of Rajasthan" shall be inserted.

[No. 13.]

A. K. MUKARJI, Dy. Secy.

CENTRAL BOARD OF REVENUE

INCOME-TAX

New Delhi, the 9th April 1953

S.R.O. 706.—The following draft of certain further amendments in the Indian Income-tax Rules, 1922, which the Central Board of Revenue proposes to make in exercise of the powers conferred by sub-section (1) of Section 59 of the Indian Income-tax Act, 1922 (XI of 1922), is published as required by sub-section (4) of the said section, for the information of all persons likely to be affected thereby and notice is hereby given that the said draft will be taken into consideration on or after the 1st May 1953.

Any objection or suggestion which may be received from any person with respect to the said draft before the date specified will be considered by the said Board.

Draft Amendment

In the statement appended to rule 8 of the said Rules—

After entry (vii), in *group* B under sub-head (3) of the Heading 'III Machinery and Plant', the following entry shall be added, namely:—

"(viii) Salt pans, Reservoirs and Condensers etc. made of impervious clay.	Nil	Renewals will be allowed as revenue expenditure".

[No. 24.]

N. SRINIVASAN, Under Secy.

INCOME-TAX

New Delhi, the 11th April 1953

S.R.O. 707.—In pursuance of sub-section (4) of section 5 of the Indian Income-tax Act, 1922 (XI of 1922), the Central Board of Revenue directs that the following further amendment shall be made in the Schedule appended to its notification No. 32-Income-tax, dated the 9th November 1946, namely:—

In the Schedule appended to the said notification, under the sub-head "VII—Delhi, Ajmer, Rajasthan and Madhya Bharat", for the existing Ranges, Income-tax Circles and Wards, the following Ranges, Income-tax Circles and wards shall be substituted, namely:—

DELHI 'A' RANGE

1. All Contractors Circles, New Delhi.
2. All Business Circles, New Delhi.
3. All Companies Circles, New Delhi.
4. Central Circle II, New Delhi.
5. All Wards at Gwalior.

DELHI 'B' RANGE

1. Wards Nos. VII and VIII. Delhi.
2. All Wards at Jaipur.
3. All Wards at Jodhpur.
4. All Wards at Bikaner.
5. All Wards at Udaipur.
6. Bharatpur.
7. Sri Ganganagar.

DELHI 'C' RANGE

1. Wards Nos. I, II, III, IV, V and VI, Delhi.
2. Evacuee Circle, Delhi.
3. Central Circle I, Delhi.
4. All Salary Circles, Delhi.
5. All Wards at Kotah.
6. All Wards at Ujjain.
7. All Wards at Indore.
8. Ratlam.

DELHI 'D' RANGE

1. Ajmer.
2. Beawar.
3. Ward No. IX, Delhi.
4. Central Circle III, Delhi.

2. Where an Income-tax Circle stands transferred by this notification from one Range to another Range, appeals arising out of assessments made in that Income-tax Circle and pending immediately before the date of this notification before the Appellate Assistant Commissioner of the Range from whom that Income-tax Circle is transferred shall on and from the date of this notification be transferred to and dealt with by the Appellate Assistant Commissioner of the Range to whom the said Circle is transferred.

[No. 27.]

K. B. DEB, Under Secy.

MINISTRY OF COMMERCE AND INDUSTRY

New Delhi, the 9th April 1953

S.R.O. 708.—In exercise of the power conferred by section 5 of the Industries (Development and Regulation) Act, 1951 (LXV of 1951), the Central Government is pleased to appoint the following persons as members of the Central Advisory Council of Industries constituted under this Ministry's Order No. S.R.O. 812, dated the 8th May, 1952, to represent the interests of owners of industrial undertakings in the scheduled industries:—

(i) Shri R. G. Saraiya, Navsari Chambers, Outram Road, Fort, Bombay, *vice* Shri S. P. Jain.

(ii) Mr. E. J. Pakes, C/o. Messrs. Mackinnon Mackenzie & Co. Ltd., 16 Strand Road, Calcutta-1, *vice* Mr. C. A. Innes.

[No. 3(2)IA(G)/52.]

P. S. SUNDARAM, Under Secy.

New Delhi, the 15th April 1953

S.R.O. 709.—*Corrigendum.*—In this Ministry's Order. No. S.R.O. 1824, dated the 31st October 1952 published on page 911 of part II Section 3 of the *Gazette of India* Extraordinary, dated the 31st October, 1952 for the words, figures, marks "The Essential Supplies (Temporary Powers) Act, 1946 (XXI of 1946)" read words, figures and marks "the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946)".

[No. 14(24)-CT(A)/52.]

S. A. TECKCHANDANI, Under Secy.

New Delhi, the 18th April 1953

S.R.O. 710.—In exercise of the powers conferred by section 3 of the Drugs (Control) Act, 1950 (XXVI of 1950), the Central Government hereby directs that the following amendments shall be made in the notification of the Government of India in the late Ministry of Industry and Supply, No. I(IV)1-Drugs, dated the 3rd October, 1949, namely:—

In the Schedule to the said Notification,—

(i) to the entries under the heading *"Messrs. Volkart Brothers, Bombay"*, the following entry shall be added, namely:—

"RHODIA SPEMYCINE containing the following mixture in powder from:—

Crystalline Penicillin G. Sodium Salt, 200 000 i.u. Penicillin G. Procaine Salt, 300·000 i.u. Dihydrostreptomycin (in the form of sulphate), 500 mgm".

(ii) to the entries under the heading "*Messrs. Glaxo Laboratories*" the following entries shall be added, namely:—

"Dihydrostreptomycin Streptomycin Sulphate Plexan (*Liver Extract*). Ampoules 6.s
25's
12 c.c. Phials."

[No. 1-PC(2)/53.]

S. KRISHNASWAMY, Under Secy.

MINISTRY OF TRANSPORT

New Delhi, the 9th April 1953

S.R.O. 711.—In exercise of the powers conferred by clause (e) of section 47 of the Delhi Road Transport Authority Act, 1950 (XIII of 1950), the Central Government hereby exempts the motor vehicles of the Delhi Road Transport Authority from the operation of the provisions of Chapter VIII of the Motor Vehicles Act, 1939 (IV of 1939).

[No. 51-TAG(12)/50.]

T. S. PARASURAMAN, Dy. Secy.

PORTS

New Delhi, the 11th April 1953

S.R.O. 712.—In exercise of the powers conferred by sub-section (1) of section 35 of the Indian Ports Act, 1908 (XV of 1908), the Central Government hereby directs that with effect from the 15th April, 1953, a surcharge of 20 per cent. shall be charged on the fees levied for (1) Pilotage In and Out, (2) Transporting, (3) Master Pilot's and Pilot's Attendance and Detention, (4) Warping and (5) Harbour Master's Attendance at the Port of Bombay.

[No. 8-PI(71)/53.]

R. S. BAHL, Under Secy.

MINISTRY OF RAILWAYS
(Railway Board)

New Delhi, the 11th April 1953

S.R.O. 713.—The following draft of certain further amendments in the Port Rules for the Port of Vizagapatam, which it is proposed to make in exercise of the powers conferred by sub-section (1) of section 6 of the Indian Ports Act, 1908 (XV of 1908), published with the notification of the Government of India in the late Department of Commerce No. 222 P & L(19)/31(I), dated the 23rd September, 1933, is published as required by sub-section (2) of the said section for the information of all persons likely to be affected thereby and notice is hereby given that the draft will be taken into consideration on or after the 1st June, 1953.

Any objection or suggestion which may be received from any person with respect to the draft before the date specified will be considered by the Central Government.

Draft amendments.

In the said Rules—

1. Rules 19 to 59 shall be omitted.

2. Immediately before the heading— (1) Use of fires and lights—the following heading and rule shall be inserted, namely:—

"(K1) *Repairs to vessels while in wet docks at Vizagapatam Port.*—*59A. If any repairs are undertaken when a vessel is alongside a berth and in the course of such repairs it becomes necessary to open up any of the overside pipes, such pipes shall be rendered safe by being

blanked off. If an overside pipe cannot be blanked off and rendered safe, then it shall not be opened up in the Port. The master or the officer-in-charge of the vessel and the owners of the vessel shall be held responsible for any accident that may arise from neglect to take these precautions and for all liabilities that may arise as a result of the accident."

3. After rule 65, the following heading and rules shall be inserted, namely:—

"65A. *Licensing of stevedores at the Port of Vizagapatam.*—(a) The Port Conservator shall, from year to year, issue licences to certain approved firms and individuals, granting them permission to perform the work of stevedoring vessels in the Port and no stevedore shall be allowed to work on board any vessel in the Port unless he is holding such licence.

(b) The Port Conservator may, after giving the licensee an opportunity of being heard and for reasons to be recorded in writing, cancel or suspend any such licence.

65. B. No licence to work in the Port shall be issued to any stevedore who shall not undertake to employ, and every licensed stevedore shall have in his permanent employment, such minimum staff as may be specified by the Port authority from time to time. At least one experienced tindal shall be in charge of the work of each gang working in each hold who shall supervise the loading or unloading including the slinging or unslinging of cargo at each hatchway at which loading or unloading is being carried on. It shall also be the duty of the tindal when work is stopped for the day or night, to search and satisfy himself that no one is remaining in the hold. Whenever a vessel is working cargo in the between-decks alone, it shall be the duty of a supervisor or foreman to see that the between-deck hatchways that are provided with cross beams and fore and aft beams have all such beams fixed in their proper places and that the hatches are properly put on before commencing work. The taking off and putting on the beams and hatches shall not be done except under the supervision of supervisor or foreman who shall also see that persons keep out of danger on deck and do not stand under any hoist. A signalman shall be posted on deck to see that the crane chain is not taken out of the square of the hatchway and that the hook does not catch the coamings.

65C. Cargo shall not be discharged, loaded or shifted in any vessel in the Port except under the directions and superintendence on board such vessel of the master or owner of the vessel or of a stevedore licensed by the Port Conservator to perform such work in the Port."

[No. 984-TG.]

S.R.O. 714.—The following draft of an amendment which it is proposed to make in exercise of the powers conferred by sub-section (1) of section 6 of the Indian Ports Act, 1908 (XV of 1908), in the Port Rules for the Port of Vizagapatam published with the notification of the Government of India in the late Department of Commerce No. 222-P&L(9)/31, dated 25th July 1931, is published as required by sub-section (2) of the said section 6 for the information of all persons likely to be affected thereby and notice is hereby given that the draft will be taken into consideration on or after the 1st June 1953.

Any objection or suggestion which may be received from any person with respect to the draft before the date specified will be considered by the Central Government.

Draft amendment

In Part II—Exports—of the said Rules, below rule 3 the following note shall be inserted, namely:—

"NOTE.—Subject to the minimum charge as for one ton, fraction of a ton not exceeding ½ ton shall be neglected. Fraction of a ton exceeding ½ ton shall be reckoned as one ton."

[No. 984-TG.]

A. K. BASU,
Director, Traffic.

MINISTRY OF NATURAL RESOURCES AND SCIENTIFIC RESEARCH

New Delhi, the 11th April 1953

S.R.O. 715.—In exercise of the powers conferred by section 5 of the Mines and Minerals (Regulation and Development) Act, 1948 (LIII of 1948), the Central Government hereby directs that the following amendment shall be made in the Mineral Concession Rules, 1949, namely:—

In item 2 of Schedule III annexed to the said Rules the words "for extraction of iron" shall be omitted.

[No. M.II-152(151).]

T. GONSALVES, Dy. Secy.

MINISTRY OF FOOD AND AGRICULTURE

(Agriculture)

New Delhi, the 10th April 1953

S.R.O. 716.—In exercise of the powers conferred by Section 3 of the Agricultural Produce (Grading & Marking) Act, 1937 (I of 1937) the Central Government hereby makes the following rules, in supersession of the Wool (Grading and Marking), Rules, 1950, the same having been previously published as required by the said section.

1. **Short title.**—(a) These rules may be called the Wool Grading and Marking Rules, 1953.

(b) They shall apply to wool obtained from sheep in any part of India except the State of Jammu and Kashmir and of specified trade descriptions as set out in the annexed schedules.

2. **Grade designations.**—The grade designations to indicate the characteristics and quality of wool of specified trade descriptions other than ginned wool are set out in column 1 of Schedule I. The grade designation of ginned wool is set out in Schedule II.

3. **Definition of quality.**—The definition of quality indicated by the grade designations is specified in columns 2 to 5 of Schedule I.

4. **Grade designation mark.**—The grade designation mark to be applied to each bale or package shall consist of a label bearing the design set out in Schedule III.

5. **Method of marking.**—The grade designation mark shall only be applied on full or half pressed bales, as the case may be, in a manner approved by the Agricultural Marketing Adviser to the Government of India. The following particulars shall be clearly indicated on the label:—

(i) Serial number;

(ii) Grade and trade description;

(iii) Colour;

(iv) Yield percentage;

(v) Name of place of packing;

(vi) Date of packing and marking.

Provided that an authorised packer may stamp or write his private trade mark on the bale or package, if such private trade mark represents the same trade description, quality and grade of wool as that indicated by the Agmark label and is duly certified by the Agricultural Marketing Adviser to that effect.

6. **Method of packing.**—The wool shall be press-packed with covering of new gunny cloth in bales with sufficient number of bands tightly placed around the bale of customary weights of 200 to 400 lb. (90·7 to 181·4 kg.).

7. In addition to the conditions specified in rule 4 of the General Grading and Marking Rules, 1937, the conditions set out in Schedule III to these rules shall be the conditions of any certificate of authorisation issued for the purposes of these rules.

SCHEDULE I

Grade designations and definition of quality of Indian Wool.

Grade designation	Colour of fibre	Special characteristics		General Characteristics
		Tolerance limit for colour	Yield per cent. of wool	
1	2	3	4	5
W.	White	Shall not contain more than 5 per cent. of creamy and dirty white fibres and shall not contain wool of any other colour.	Actual yield percentage	All grades shall be free from burrs, thorns, sticks, ginned wool etc. except a few un-avoidables. Wool of all grades shall be clean and dry in feel. Fibres shall be fairly uniform in quality. The yield of the wool shall be 75 per cent. or over.
C. W.	Creamy White	Shall not contain more than 10 per cent. of dirty white fibres and shall not contain wool of any other colour	Ditto	Ditto.
D. W.	Dirty White	Shall not contain more than 5 per cent. of pale yellow fibres and shall not contain wool of any other colour.	Ditto	Ditto.
P. Y.	Pale Yellow	Shall not contain more than 5 per cent. of white and yellow fibres and shall not contain wool of deep yellow or of any other colour.	Ditto	Ditto.
Y.	Yellow	Shall not contain more than 5 per cent. of deep yellow fibres and shall not contain wool of any other colour except white and pale yellow.	Ditto	Ditto.
D. Y.	Deep Yellow	Shall not contain wool of any other colour except white or yellow.	Ditto	Ditto.
C.	Coloured Wool.	May contain fibres of any colour.	Ditto	Ditto.

SCHEDULE II

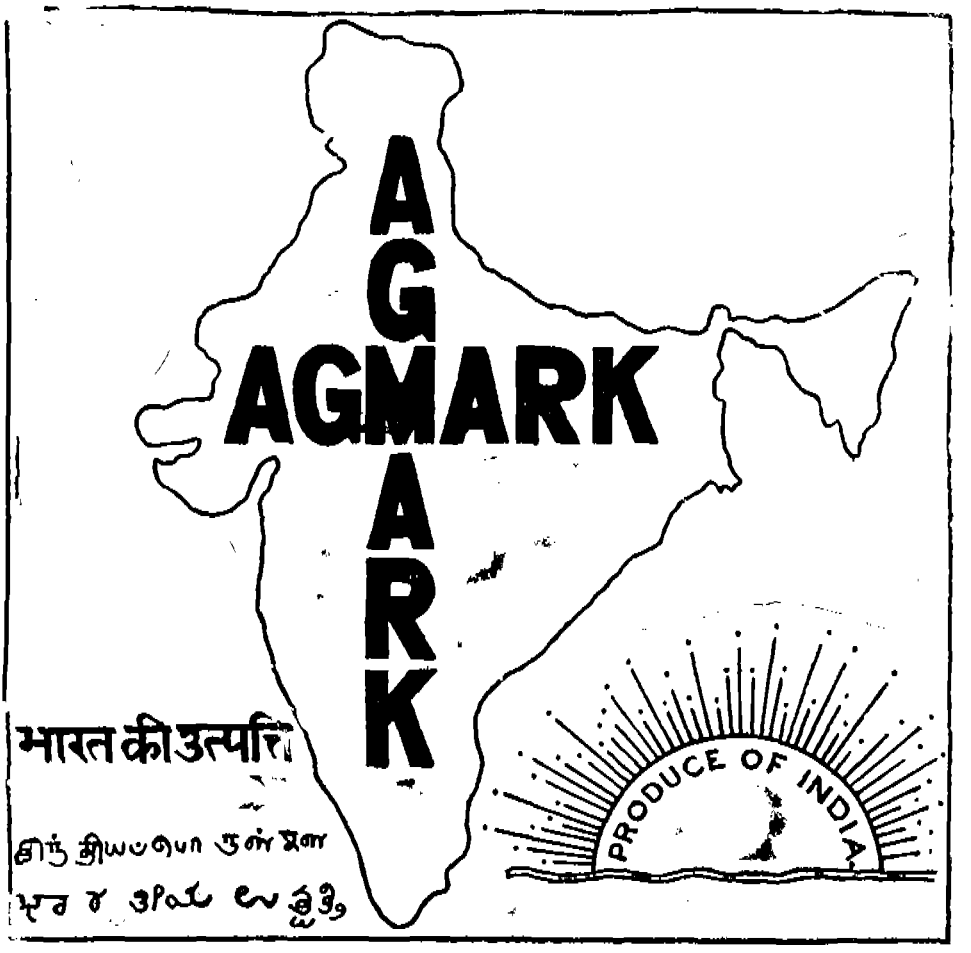
Ginned wool shall be marked with the grade designation "Ginned Wool".

N.B.—In the case of ginned wool the requirement under general characteristics in column 5 of Schedule I that the yield of wool shall be 75 per cent. or over shall not apply. Actual yield per cent. shall be shown on the label.

SCHEDULE III

(*See* Rule 4)

The grade designation mark to be applied to bales of wool shall contain the following design:—



[No. F.3-15/52-Dte.II.]

S. D. UDHRAIN, Under Secy.

(Agriculture)

New Delhi, the 11th April 1953

S.R.O. 717.—Shri S. K. Kallapur, B.A., LL.B., Dharwar, North Kanara District, has been renominated under Section 4(b) of the Indian Central Coconut Committee Act, 1944, by the Government of Bombay to represent Growers of Coconut in India on the Indian Central Coconut Committee, with effect from 1st April, 1953.

[No. F.2-14/53-Com.II.]

F. C. GERA, Asstt. Secy.

New Delhi, the 14th April 1953

S.R.O. 718.—In pursuance of the provisions of sub-clause (3) of clause 1 of the Foodgrains (Licensing and Procurement) Order, 1952, the Central Government

hereby directs that the following amendment shall be made in the notification of the Government of India in the Ministry of Food and Agriculture No. S.R.O. 1949, dated the 25th November, 1952, namely:—

In the said notification, the words "Assam and Bhopal" shall be omitted.

[No. PYII-652(1)/53.]

P. A. GOPALAKRISHNAN, Joint Secy.

MINISTRY OF PRODUCTION

New Delhi, the 8th April 1953

S.R.O. 719.—In exercise of the powers conferred by section 17 read with section 19 of the Coal Mines (Conservation and Safety) Act 1952 (XII of 1952), the Central Government hereby directs that the following further amendments shall be made in the Coal Mines Safety (Stowing) Rules, 1939, the same having been previously published as required by sub-section (1) of section 17, namely:—

In the said Rules for the expression "Secretary (Stowing) to the Chairman, Coal Board" wherever it occurs, the expression "Deputy Secretary to the Coal Board" shall be substituted.

[No. 24-CI(2)/53.]

A. NANU, Under Secy.

MINISTRY OF WORKS, HOUSING AND SUPPLY

New Delhi, the 11th April 1953

S.R.O. 720.—In pursuance of clause (a) of sub-section (2) of section 27A of the Indian Boilers Act, 1923 (V of 1923), the Central Government is pleased to nominate Shri M. K. Vellodi, I.C.S., to be Chairman of the Central Boilers Board *vice* Shri C. C. Desai, I.C.S.

[No. BL-308(2)/53.]

J. K. ROY, Asstt. Secy.

MINISTRY OF LABOUR

New Delhi, the 8th April 1953

S.R.O. 721.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947) the Central Government hereby publishes the following award of the All India Industrial Tribunal (Bank Disputes) in the matter of victimisation, etc., of workmen in banking companies:

BEFORE THE ALL INDIA INDUSTRIAL TRIBUNAL (BANK DISPUTES), BOMBAY

PRESENT:

Shri S. Panchapagesa Sastry—*Chairman.*

Shri M. L. Tannan, Shri V. L. D' Souza } *Members.*

Serial Nos. 94 and 123 in S.R.O. 42, dated 8th January, 1953 (*Reference* 2/52). January, 1952 (Reference 2/52).

BETWEEN

Shri F. J. Patel

AND

Chartered Bank of India, Australia & China

APPEARANCE:

Mr. N. V. Phadke and Mr. S. S. Dighe for the workman.

Mr. A. C. Beynon for the Bank.

AWARD

This is one of the disputes referred to us for adjudication by the Notification S.R.O. 42 of the Government of India dated the 8th January 1952. It appears as Serial Nos. 94 and 123 in Schedule thereto. It is one and the same dispute though it bears two numbers, evidently by some mistake. The nature of the dispute is set down as "victimization" under Serial No. 94 and as "dismissal from service" under Serial No. 123.

2. Shri F. J. Patel's case is as follows: He joined the Bank's service in January 1937. He was also one of the office bearers of the Chartered Bank Employees' Union and also of the Federation of Bank Employees, Bombay. In that capacity he had often to act as the spokesman of the employees and to represent their grievances to the Bank for obtaining redress. He also took a leading part in the conduct of legal proceedings against the Bank whenever negotiations failed and such proceedings were started. In some cases he gave evidence as one of the witnesses.

3. In 1948 there was a dispute between certain employees of the Bank who were formerly employees of P. & O. Banking Corporation and later on absorbed in this Bank as a result of some arrangement between the banks. The dispute related to the length of their services for purposes of adjustment of salaries in the new scales of pay fixed by the Bombay Award of Mr. Justice Divatia in 1947. The concerned workmen charged the Bank with not having implemented the award of Mr. Justice Divatia in relation to this matter. Under the Bombay Industrial Disputes Act (Act XI of 47), they filed Application No. 37 of 1948 before the Labour Court for necessary relief. That Court decided that the Bank's action was not right and gave relief accordingly. On an appeal however to the Industrial Court, Bombay, the decision was reversed on a technical ground that the award of Mr. Justice Divatia was not registered under Section 74 of the Bombay Industrial Relations Act. The award was subsequently registered. Once again the employees concerned made another application to the Labour Court, Bombay, Application No. 7 of 1949. This was heard by another Judge of the Court who came to a different conclusion on the facts and held that there was no continuity of service of such employees and that it was their length of service in the Chartered Bank alone that should count for purposes of adjustment as per the award of Mr. Justice Divatia. Shri Patel was one of the witnesses in the above proceedings and also was instructing the advocate appearing on behalf of the employees. In May 1949 the employees preferred an appeal against the order of the aforesaid Labour Court in Application No. 7 of 1949. Shri Patel's complaint is that on 30th of May he was served with an order of suspension and a charge-sheet bearing the same date to show cause why disciplinary action should not be taken against him for alleged misconduct. An enquiry was held by the Bank and as a result thereof he was ultimately dismissed from the Bank's service. This dismissal is, according to him, a direct result of his trade union activities and of the interest he evinced in the legal proceedings instituted by the former employees of the P. & O. Banking Corporation who were absorbed by the Chartered Bank. It is his case that he has been victimised for no fault of his, that the alleged charges against him are not true and that the dismissal is wrongful and not proper. He also states that the charges even if true will not amount to misconduct under the Model Standing Orders which were in force at the material time, and besides, the dismissal is contrary to law inasmuch as it contravened Section 101 of the Bombay Industrial Relations Act which applies also to the banking industry. An objection is also taken to the severity and harshness of the punishment. In the circumstances of the case Shri Patel prays that the dismissal should be declared to be wrongful and improper and that the Bank should be directed to reinstate him from the date on which his services were terminated on the same terms and conditions together with the further benefits that would have accrued to him had his services been continuous. In addition sufficient amount of compensation is claimed by way of damages.

4. In a lengthy written statement filed by the Bank the jurisdiction of the Tribunal to enquire into this matter is questioned on various grounds: *viz.* (1) at the date of the order of reference *i.e.*, 8th January 1952 there was no dispute between the claimant and opponent Bank; (2) even if there was any dispute it was not and could not have been an industrial dispute as defined in the Industrial Disputes Act of 1947, for the reason that the complainant was not on that date a workman of the Bank, he having been dismissed for misconduct as early as 16th June 1949; and (3) it could not be an industrial dispute inasmuch as it was not a dispute between the Bank and its workmen or a substantial majority of them, but must be regarded only as an individual dispute between the Bank and an individual workman and hence the reference to the Tribunal is invalid, void and ineffective.

5. The written statement raises several other objections also to the enquiry being proceeded with even if the reference should be valid and the Tribunal should have jurisdiction. It is claimed that the workman is barred from instituting the present claim by the application of the principle of *res judicata* and of the principles and provisions of law relating to the withdrawal of a suit or proceeding without permission of the court to institute a fresh suit or proceeding. This contention is founded on the circumstance that the workman previously instituted several proceedings in Courts and Tribunals with reference to this very matter and finding ultimately that his claim was not sustained he abandoned the claim and the dispute therefore reached a final termination. The following are the earlier proceedings referred to: (1) On 9th September 1949 the complainant filed Application No.210/49 in the Second Labour Court at Bombay under the Bombay Industrial Relations Act (Act XI of 1947) in which he had prayed that the order of dismissal should be set aside and that he should be reinstated with all allowances from date of suspension and with additional compensation. (2) Again on 6th August 1949 the same matter was raised before the All-India Industrial Tribunal (Bank Disputes), commonly known as the Sen Tribunal, at the instance of the General Secretary of the Federation of the Bank Employees as one of the cases of victimization to be enquired into by them. The Sen Tribunal after a full inquiry into this matter passed an award dated 11th February 1950. Therein it was held that the complainant was guilty of misconduct under both the charges brought against him and that he had not been victimized for trade union activities and that the dismissal order could not therefore be set aside. Consequent on this decision the claimant applied to withdraw his Application No.210/49 which had been pending in the Second Labour Court, Bombay, and therein he stated as follows: "In view of the decision of the All India Industrial Tribunal in my case before them I hereby withdraw this application pending before your honour and I say I do not wish to proceed further in the matter. The orders may therefore be passed accordingly." On this application the court passed an order in the following terms "Allowed to be withdrawn."

6. Apart from this objection raised by way of preliminary bar to the enquiry the Bank also pleads on the merits. On this point the reply statement of the Bank alleges that the claimant gave false evidence against the Bank in the proceedings before the Labour Court, Bombay in Application No.7/49 (as the Judgment itself shows), and he also admitted on oath in the said proceedings that he unscrupulously persuaded another employee of the Bank to betray the confidence of the Bank by divulging to him certain information for purposes of the said proceedings. His record of service in the Bank is alleged to be consistently bad. He was dismissed from Bank's service on 16th June 1949 for misconduct as a result of an inquiry duly held in accordance with the Standing Orders applicable to the Bank. The Bank disclaims any grudge or illwill against him by reason of his active participation in the proceedings before the Labour Court, and categorically denies the allegation that he was victimized. The Bank further states that there was a full and regular enquiry with reference to the charges against him for misconduct that he was dismissed only as a result of the findings come to by a competant officer and that the present complaint deserves to be summarily rejected.

7. We shall in the first instance deal with the legal points raised by the Bank. The first objection urged by Mr. Boynon appearing for the Bank is that there was no dispute in fact existing on the 8th January 1952 between the workman and the Bank, and hence the reference to us is void and of no effect. In the first place the question of the factual existence of the dispute is a matter for the Government which makes the reference. The reference itself is more an administrative order than otherwise. This has been laid down by a recent decision of the Supreme Court reported in *State of Madras V. C. P. Sarathy* (1953-1 L.L.J. 174). The Industrial Tribunals should not be astute to hold that there were no proper materials for the Government to come to a conclusion as to the existence of a dispute. In this particular case there were ample materials before the Government. Dismissal of this workman was one of the cases of victimization referred to the Sen Tribunal and entertained by them. When the Sen Award was declared void by the Judgment of the Supreme Court the disputes which were before them had to be resolved again by adjudication of a competent Court or Tribunal. In these circumstances it is idle to contend that there were no materials before the Central Government for its conclusion that there was in existence a dispute between the workman and the Bank which in its judgment required an adjudication.

8. The next contention is that Shri Patel could not be regarded as a workman for purposes of the Industrial Disputes Act, 1947. He was dismissed on 16th

June 1949. The proceedings before the Sen Tribunal commenced on 13th June 1949, the date of reference to them. The Chartered Bank and its workmen were parties to that general dispute in the banking industry. This workman therefore is a person discharged during the pendency of an industrial dispute. He is therefore a "workman" as defined in Section 2 clause (s) of the Industrial Disputes Act 1947. This contention fails.

9. The third contention before us was that the dispute if any can only be regarded as an individual dispute as contra distinguished from an industrial dispute. We do not agree with this contention either. On the facts of this case it is perfectly clear that this matter of dismissal of this workman who was an office bearer of the Chartered Bank Employees' Union and also a member of the Federation of Bank Employees, Bombay, was taken up by the said Federation as one of the cases of victimization to be enquired into by the Sen Tribunal. This dispute, therefore, was a dispute not merely between the bank and the workman but really a dispute between the Bank and all its workmen in relation to the matter of dismissal of this particular workman. It is therefore an industrial dispute and not merely an individual dispute.

10. Yet, another contention of Mr. Beynon was that the Notification by the Government of India S.R.O. 42 of 8th January 1952 only sets out a dispute between the Bank and this particular workman as the existing dispute and makes no reference to dispute between the Bank and its workmen generally. This we think is too narrow a view to be taken of the terms of the notification. It will be seen that the notification itself recites that the Government is of opinion that an *industrial* dispute exists etc. When we know that the Government was fully aware of the previous history of these various disputes which are referred to in the said Notification S.R.O. 42 of 8th January 1952 *viz.*, that these are cases of victimization taken up by Unions themselves and enquired into by the Sen Tribunal and that they have to be decided again because the Sen Award was declared void, it will not be correct to read the notification as merely referring an individual dispute between a particular workman and the concerned Bank. To much reliance cannot be placed upon only a portion of the Notification as indicating that the Government was referring merely a dispute between a Bank and a particular workman alone as if the other workmen of the Bank had no concern with it. This is not only opposed to the facts within the knowledge of the Government but also inconsistent with the recital in the Notification that it is an industrial dispute that is being referred to us. As observed by the Supreme Court in the case referred to earlier an industrial tribunal should not be astute to hold that a reference by a Government is illegal or void, except of course where the matter is very clear and beyond all reasonable doubt. In this particular case we have no hesitation in holding that the contention of Mr. Beynon that this is an individual dispute is not correct either on facts or in law. Our attention was also drawn to several decisions which seemed to draw a distinction between an individual and an industrial dispute. It is not necessary to discuss that matter more fully in view of our conclusion that on the facts of this case the dispute had been taken up by the Federation of Bank employees and should be regarded as a dispute raised by the Union and continued as such.

11. Having thus held that the reference is not invalid on any of the grounds urged by Mr. Beynon and that we have jurisdiction to go into the matter we have now to consider the validity of the argument that there is a preliminary bar to our inquiry by reason of the analogy of the principles of *res judicata* or of the principles underlying the bar to a proceeding where a previous legal proceeding is withdrawn without express permission to institute a new proceeding. The circumstances on which this argument is founded have been set out *in extenso* in the written statement of the Bank to which we have already referred. It will be noted that the decision of the Sen Tribunal, having been declared void altogether *ab initio*, the same will have to be excluded from our cognizance as a pronouncement by a Tribunal "not competent" to try the matter. Apart from the Sen award there has been no decision on the merits of the controversy. There is no room therefore to apply the analogy of the principle of *res judicata*. The bar to the inquiry is also urged on the ground that Shri Patel did not reserve for himself, when he withdrew the prior proceedings in Application 210/49, the right to institute those proceedings afresh and obtain the specific permission of the Second Labour Court to that effect. The argument is based on Order 23 rule 2 of the Civil Procedure Code. Neither that provision nor an analogous application of the principle underlying the same can be invoked to bar the present proceedings before us. One need not stop to consider this argument at all as in this particular case the application to withdraw was only on the assumption that the Sen Tribunal was validly constituted and its award was that of a competent tribunal, when in truth it must be regarded as void.

12. It would not be just and proper to hold the workman to a state of affairs which proceeded on the assumption that a competent court had decided the matter when that assumption had proved to be incorrect.

13. Now we turn to the merits of the controversy of the case. The Model Standing Orders for the Banking Industry framed by the Government of Bombay are admitted by both parties to have been in force at the relevant time and to govern the rights of parties. Misconduct is set out in rule No. 21 under various sub-clauses (i) (xxiv). Mr. Beynon on behalf of the Bank contended before us that the charge of misconduct was made out under various sub-clauses of rule 21 and also even apart from this rule. The workman was suspended from service by a notice issued by the Bank dated 30th May 1949. That notice states as follows: "A *prima facie* case of misconduct on your part having come to the notice of the Bank, the Bank proposes to take action against you under Standing Order 22(1)(c) of the Government Model Standing Orders, which are applicable to you under Section 35(5) of the Bombay Industrial Relations Act". A charge-sheet of the same date was also served on him. The charge-sheet is a precise document apparently drawn with legal advice and sets out the alleged acts of misconduct for which disciplinary action is proposed to be taken by a regular enquiry. The first item of charge is that the workman gave false evidence against the Bank as a witness in the court of enquiry in Application No. 7/49 already referred to as the Second Labour Court, Bombay. The particular statements which are claimed as false are also set out. The charge-sheet also states that by giving this false evidence the workman committed an act or acts of dishonesty in connection with the business or affairs of the Bank amounting to misconduct within Standing Order 21(iv) and the same also is an offence under Section 191 of the Indian Penal Code, and therefore again the workman is guilty of misconduct. The second charge against him is that prior to the proceedings in the Labour Court in the said application he improperly obtained certain information about the names and adjustments of certain persons in the cash department knowing that the proper method would have been to approach the court and ask that the Bank be directed to produce information and that he thereby committed an act of misconduct. In this matter the workman is charged with having unscrupulously persuaded another employee of the Bank *viz.*, an Assistant Cashier to betray the confidence of the Bank and give information unauthorisedly and thereby the workman is said to have committed an act of misconduct within Standing Order 21 (XVIII). There is also a general statement in the charge-sheet that the workman committed an act or acts subversive of discipline and good behaviour on the premises of the Bank amounting to misconduct with Standing Order 21 (XVI). In the accompanying letter enclosing the charge-sheet the workman was also asked to show cause not only against the charges but also against the proposed punishment of dismissal in case the misconduct should be made out. As a result of the enquiry held by the Bank the workman was found guilty of the charges of misconduct levelled against him and he was hence dismissed without notice under Standing Order 22(1)(c). A copy of the proceedings of the enquiry held by the Bank and the findings arrived at have been filed before us.

14. Before proceeding further we might refer the Award of the Sen Tribunal in reference to this dispute. Although the said award must be treated as void in law, Counsel on both sides of their own accord read out the same to us and they did so, not of course with the view that we are either bound by it or that we should necessarily adopt the findings of the said Tribunal. It was more with the view that the facts relating to the dispute which are compendiously and succinctly set out there should be brought to our attention without unnecessary details.

15. The first question that calls for consideration is whether in fact the workman did give false evidence before the Labour Court, Bombay in the course of the hearing of the Application No. 7/49. The Judge of that Court in the course of his judgment remarked that "this witness and another seem to be so over enthusiastic for proving the case that they make many statements which are quite false". Then he refers to some of the statements of Shri Patel which he thinks are improbable and contrary to the documentary evidence. A fair reading of the judgment shows that the Judge thought that some of Mr. Patel's statements in his evidence were in any event not true to his knowledge. In the inquiry held by the Bank itself a similar conclusion was come to by the officer who made the inquiry. In the Sen award it is stated that Mr. Dighe, Counsel (who appeared for the workman then and who also appears for the workman before us also along with Mr. Phadke), "did not contest the finding of the Judge of the Second Labour Court that the statements made by him (the witness) were false." Mr. Dighe also did not deny that Mr. Patel had made the statement which was recorded by the Bank in the course of inquiry in connection with information obtained by him as follows: "I know that the proper method would be far me to approach the Court and ask that the Bank be directed to produce the information. My waiting would have been too

late. If I had gone to the Court it would have been too late because I would have gone to the court without the information. I am positive that the Bank would not have given the information (even if he had approached the officer of the Bank for that purpose). On the contrary they would have blamed me..... I had to persuade Mr. Hathiram (Assistant Cashier) to betray the confidence of the Bank and give me the information..... For this matter I had acted unscrupulously." Even if we discard the opinion of the Labour Court and of the enquiring officer there is ample material before us in the form of admissions of the workman that he did give false evidence and that he did get information in an unauthorised manner by persuading a fellow-employee to give such information without the authority of superior officers. Shri Patel himself who was present before us had no evidence to offer as regards the truth of the statements made by him in his evidence before the Labour Court. We therefore come to the conclusion that his evidence must be taken to have been given knowingly and contrary to truth, and that he persuaded a fellow-employee to give information in an unauthorised manner.

16. On these findings of fact the question arises whether he has been properly held to be guilty of misconduct as laid down in the charge-sheet and as found by the officer as a result of the inquiry.

17. We shall now consider the question whether the giving of false evidence against the Bank in the circumstances of this case would justify dismissal. Section 101 of the Bombay Industrial Relations Act is as follows:

"No employer shall dismiss, discharge or reduce any employee or punish him in any other manner by reason of the circumstance that the employee

(a) is an officer or member of a registered union or of a union which has applied for being registered under this Act; or

(b) is entitled to the benefit of a registered agreement or a settlement, submission or award; or

(c) has appeared or intends to appear as a witness in, or has given any evidence or intends to give evidence in a proceeding under this Act; or

(d) is an officer or member of an organization the object of which is to secure better industrial conditions; or

(e) is an officer or member of an organization which is not declared unlawful; or

(f) is a representative of employees; or

(g) has gone on or joined a strike which has not been held by a Labour Court or the Industrial Court to be illegal under the provision of this Act."

Mr. Phadke's contention on behalf of the workman is that the dismissal for giving even false evidence is contrary to the terms of Section 101 and therefore illegal.

18. Mr. Beynon contends that the expression "giving any evidence" should be confined to giving evidence which is true only and should exclude giving of evidence which is false. According to him giving false evidence is a crime under the Indian Penal Code and should therefore be taken to be misconduct in general even apart from Section 21 of the Model Standing Orders. The policy underlying this provision is obviously to give full freedom to give evidence before Tribunals free from any fear of dismissal or other disciplinary action. There is no justification for putting a restricted meaning on the expression "giving any evidence". The use of the word 'any' is emphatic and must include every kind of evidence, whether true or false. No man can be punished for giving true evidence. That will be really inflicting a punishment for no offence or misconduct. The narrow interpretation contended for by Mr. Beynon cannot be accepted. It follows that this dismissal is illegal as being opposed to the specific provisions of the Bombay Industrial Relations Act.

19. Mr. Beynon further contended that giving of false evidence amounted to dishonesty in connection with the affairs of the Bank within rule 21 clause (iv). We think this is a far-fetched argument. We reject it. We also contended that it amounted to an act prejudicial to the interest of the Bank within the meaning of sub-clause (XIII) of rule 21. It may be prejudicial to the Bank in some cases where even true evidence is given which may be against the Bank's interest. That is not the kind of conduct which falls within the scope of sub-clause (XIII) of rule 21. In any event, the specific terms of Section 101 of the Bombay Industrial Relations Act must prevail over the general language of the rule of the Model Standing Orders. Mr. Beynon also suggested that there was an attempt to cause wrongful loss to the Bank because, if Shri Patel's evidence was accepted the Bank would have had to pay higher salary to some extent in the matter of adjustments as per

the directions of Mr. Justice Divatia's award to the ex-employees of the P. and O. Banking Corporation, whom they had taken into their service. In the first place the attempt did not succeed. Further, the punishment of dismissal would seem to be unduly oppressive for such misconduct, if at all it is a misconduct. But, apart from this objection, we have already held that Section 101 of the Bombay Industrial Relations Act prohibits a dismissal under such circumstances; and a violation of this section cannot be condoned in this indirect way.

20. The second charge relates to the obtaining of information from a fellow-employee in an unauthorised manner. Mr. Beynon's contention is that this comes under rule 21 clause (XIV) *i.e.*, aiding or abetting the commission of any act of misconduct. In the first place, the charge can only be of abetment of misconduct on the part of another employee who disclosed confidential information unauthorisedly. It is worth-noting that the information that was said to have been given was quite relevant for purpose of the inquiry before the Tribunal and the Bank could have been, or should have been, compelled to disclose it to the court and to the other workmen by interrogatories or by evidence. Actually the information was not such that it could not have been got by approaching the employees directly and gathering information from each of the affected persons. It is rather strange that this act should now be magnified into a grave misconduct meriting dismissal. Apart from all this, clause (XIV) itself is confined to aiding or abetting, or conniving at certain types of misconduct mentioned in the earlier group; and clause (XVIII) relating to unauthorised disclosure of information regarding the affairs of the Bank is not one of these clauses, the abetment of which will amount to misconduct under clause (XIV). Whether the other employee who disclosed the information comes under clause (XVIII) of rule 21 or not, Shri Patel cannot however come under that clause. Mr. Beynon ultimately fell back upon clause (XVI) of rule 21 which is as follows: "commission of any act subversive of discipline or good behaviour on the premises of the Bank". Obviously this clause cannot apply to the facts of this case. All that is urged is that Shri Patel got the Assistant Cashier to disclose some information when both were in the Bank premises. If this information had been given outside the premises by the Assistant Cashier to Shri Patel when both came out to lunch or for some other purpose, surely clause (XVI) cannot be relied upon. This itself shows that the scope of clause (XVI) is not really to take in matters which come under clause (XVIII) of rule 21. Clause (XVI) properly interpreted refers really to acts which create disturbance, as for instance shouting of slogans etc., in the premises of the Bank, or carrying on trade union activities during office hours not permitted by the Bank. We are therefore of opinion that the finding of misconduct under this head is not justified.

21. In the result we must hold that in law there has been no misconduct established against the workman in respect of all the charges levelled against him.

22. Reference was made to Section 191 of the Indian Penal Code. With reference to cases of perjury even a prosecution requires a complaint by the public officer or the court concerned, which will be made only where the interests of justice require it. There has been no attempt at prosecuting this workman in this connection for giving false evidence. We cannot justify a dismissal for misconduct under the Model Standing Orders merely because the general law of crimes prohibits giving false evidence. The protection given by Section 101 of the Bombay Industrial Relations Act must be given full scope and cannot be curtailed merely because perjury is a crime under the Indian Penal Code. For all these reasons this dismissal must be regarded as improper and should be set aside.

23. A reference was made to the principles which guide the interference by Civil Courts in relation to disputes of domestic tribunals. We are of opinion however that in relation to industrial disputes referred to tribunals for adjudication it will not be correct to apply such limitations as are recognized in ordinary civil law in relation to certain types of domestic tribunals. Reference may usefully be made to decision of the High Court of Madras in *Ranganathan V. Madras Electric Tramways Ltd.* (1952—1 L.L.J. Page 772). In that Judgment Mr. Justice Subba Rao observes as follows: "It is, therefore, clear that the Industrial Disputes Act substitutes for free bargaining between the parties a binding award by an impartial tribunal. The tribunal is not bound by contractual terms between the parties but could make a suitable award for bringing about harmonious relations between the employers and workers. In such a set-up, in my view, the doctrine of domestic tribunal cannot easily fit in. When an impartial tribunal working in the realms of arbitration and unfettered by contractual terms entered into between the parties, is empowered to settle the disputes between the parties it would appear incongruous that one of the parties to the dispute could sit in judgment over the other and bind the hands of the tribunal empowered to decide impartially the dispute between them. It would obstruct the work of the tribunal and prevent it from discharging

its difficult task of bringing about harmonious relations between the parties. I would, therefore, hold that the industrial tribunal is not fettered by any such limitations on its power." We agree with this view. Even apart from this, where there has been an error of law, the decision of a domestic tribunal in relation to a matter like dismissal cannot be treated otherwise than an ordinary decision of an inferior court which is being reviewed by an appellate court in the ordinary way.

24. We have now to consider what is the appropriate relief to be given. Ordinarily in cases of wrongful dismissal, reinstatement should be the normal relief. No doubt, there are certain circumstances in which the industrial tribunal may instead of ordering reinstatement give compensation alone. There has been in this case according to our findings, a flagrant violation of one of the statutory provisions laid down in the Bombay, Industrial Relations Act. The Appropriate relief should therefore be only an order of reinstatement. We accordingly set aside the order of dismissal and direct that Shri Patel be reinstated in his original post. Such reinstatement is to take effect as and from the date of his suspension. He shall be paid all the arrears of pay and allowances due to him, and such other benefits to which he would have been entitled had he been actually in service. He shall also be regarded as having had no break in the continuity of his service. The Bank would however be permitted to deduct from the amounts due to him what he admits to have earned during the period when he was not in actual service of the Bank. He has filed an affidavit before us setting out in detail all the temporary jobs he held in the interval and the emoluments he drew therefrom. Mr. Beynon took time to verify the facts contained therein. At the end of his arguments he told us that the Bank was not in a position to contradict any of the statements in the affidavit of the workman in relation to this matter. We therefore accept the same. We find on his admissions that the workman earned a sum of Rs. 4,394-12-0. This amount will be deducted from the arrears of pay, allowances etc. which are due to him from the Bank. We permit Shri Patel to report himself to duty at the Head Office of the Bank in Bombay within ten days of the publication of the Award.

(Sd.) S. PANCHAPAGESA SASTRY, *Chairman*, 20-3-53.
(Sd.) M. L. TANNAN, *Member*, 28-3-53.
V. L. D'SOUZA, *Member*, 20-3-53.

*Subject to my minute of dissent—(M.L.T.)

Minute of Dissent by Shri M. L. Tannan

While I have my doubts regarding the legal objections raised on behalf of the Bank, I do not propose to discuss that aspect as I feel sure that Shri F. J. Patel's case cannot be upheld on merits. The two main points on which the Banks has based its case are:—

(1) That Shri F. J. Patel gave false evidence against the bank as a witness in the court of enquiry in Application No. 7/49.

(2) That Shri Patel persuaded one Mr. Hathiram, Assistant Cashier, of the Bank to betray the confidence of the bank and give him some information about the affairs of the Bank in an unauthorised manner.

As regards the first, my colleagues have referred to the Section 101(c) of the Bombay Industrial Relations Act, which lays down that no employed shall dismiss, discharge or reduce any employee or punish him in any other manner by reason of the circumstance that the employee has appeared or intends to appear as a witness in, or has given any evidence or intends to give evidence in a proceeding under the Act. My colleagues' view is that the use of the word 'any' is emphatic, and must include every kind of evidence whether true or false. I am afraid, I am unable to subscribe to this view. Surely, the word 'any' cannot include the giving of false evidence which is a criminal offence under the Indian Penal Code. I do not think that such a wide interpretation of the word is warranted. The use of the word 'any' should be viewed in the light of the limitations inherent in the context in which it appears as well as the circumstances of the case. This is particularly so as far as the employees of the banking institutions are concerned. Banking is based upon credit, and if the bank employees are to be permitted to give false evidence with impunity which may affect a bank's interests, a bank's business which is dependent upon public confidence is bound to suffer. Customers of banks sometimes leave large sums of money, securities, etc. with banks' staff without waiting for usual receipts; and if members of the staff of any particular bank are known to give false evidence they are likely to forfeit the confidence of

the bank's clients to the detriment of the bank's interests. I therefore do not think that persons who are responsible for the drafting of the Model Standing Orders could have used the word 'and' in such a wide sense as seems to have been the basis of my colleagues' interpretation, and I, therefore, agree with Mr. Beynon's contention that the expression "giving any evidence" should be confined to giving evidence which is true and should exclude giving of evidence which is palpably false. Giving false evidence is an offence under the Indian Penal Code, and should therefore be taken as an act of misconduct in general, even apart from rule 21 of the Model Standing Orders. Attention is invited to para 15 of my colleagues' award, giving an extract from the Sen Award to the effect that Mr. Dighe, Counsel (who appeared for the workman then and who also appears for the workman before us along with Mr. Phadke) "did not contest the finding of the Judge of the Second Labour Court that the statements made by him (the witness) were false". Mr. Dighe did not deny also the statement of Shri Patel recorded by the Bank in the course of the enquiry in connection with the information obtained by him to the effect that he had to persuade Mr. Hathiram (Assistant Cashier) to betray the confidence of the Bank and give him the information, and that he had acted unscrupulously in the matter. While it is true that the employees of banks should have full freedom to give evidence before courts and tribunals undeterred by any fear of dismissal or other disciplinary action, such freedom needs to be qualified, and should not be interpreted to include the giving of false evidence, which is a criminal offence either in this or any other case.

I am also not convinced that the Model Standing Orders are exhaustive, as they cannot be expected to provide for each and every kind of act or omission on the part of a bank employee to be treated as misconduct. Rule 21 of the Model Standing Orders for the banking industry referring to misconduct states that certain acts and omissions on the part of employees would amount to misconduct. It does not however say that *only* such acts or omissions and no other shall amount to misconduct. There are, I believe, a number of other acts or omissions, particularly the former which may fall into that category. For instance, sub-clause (iv) of rule No. 21 of the Model Standing Orders for the banking industry lays down "abetting, conniving at or attempting or committing of theft, fraud, or dishonesty in connection with the business, property or affairs of the Bank or its customers", as an act of misconduct. I think that abetment, conniving at or attempting or committing theft, fraud or dishonesty in connection with the property or affairs of persons other than the bank or its customers should also be treated as an act of misconduct on the part of a bank employee.

I am also inclined to agree with Mr. Beynon, Counsel for the bank, that giving of false evidence by Shri Patel amounted to an act prejudicial to the interests of the bank within the meaning of sub-clause (xiii) of rule 21, as thereby he tried to cause wrongful loss to the Bank resulting in the payment of higher salaries, to some extent, in the matter of adjustment claimed by the employees. My colleagues state that, in the first place, the attempt did not succeed. The fact whether the attempt did or did not succeed does, and ought, not to alter the case. A person who tries to cheat or steal is not acquitted in case his attempt to cheat or steal does not succeed. I am, therefore, of the opinion that such an attempt on Shri Patel's part stands covered by sub-clause (xiii) of rule 21 referred to above.

As regards the second charge relating to the obtaining of information from a fellow-employee in an unauthorised manner, I am inclined to agree with Mr. Beynon that it falls under rule 21 clause (xiv) *i.e.* aiding or abetting the commission of an act of misconduct. Shri Patel has himself admitted that in this matter he had acted unscrupulously. My colleagues do not seem to attach sufficient importance to this act possibly because the information obtained by Shri Patel might have been obtained through the court. I am afraid I do not agree with them in this regard also. It may be that a person wanting some information about the account of a particular customer of a bank or its affairs may be in a position to get it through sources other than the employees of the bank, but such a conduct on the part of a bank employee who gives the information or a fellow-employee who obtains such an information without the previous permission of the authorities of the bank cannot be justified by the very nature of his conduct which is highly irregular. Not only employees of banks but also its directors are generally required to sign declarations of fidality and secrecy, and consequently they are bound not to disclose any information about the affairs of the Bank or the accounts of its customers, in any unauthorised manner.

I therefore think that Shri Patel is guilty of having committed acts of misconduct which deserve some punishment. I understand that another witness Shri Ghadiali, who also gave false evidence, was not discharged because he offered an

apology. Shri Patel was also asked to apologise, but he refused to do so, and consequently he was dismissed. It is clear that the management charge-sheeted Shri Patel and held an enquiry as required by law, and dismissed him as a result of the findings, after giving Shri Patel every opportunity to defend himself.

In this connection, attention is invited to the unanimous decision of the Sen Tribunal against Shri Patel referred to in para 15 in my colleagues' award. It is true that the decision has become void on technical grounds, but for the reasons explained above and in view of the fact that the Sen Tribunal consisted of persons occupying high judicial appointments I see no reason why there should be any hesitation on our part to adopt their decision. I, therefore, do not think that the order of dismissal calls for any interference by us.

Dated the 28th March, 1953. (Sd.) M. L. TANNAN.

[No. L.R-100(3).]

New Delhi, the 11th April 1953

S.R.O. 722.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the industrial dispute between Messrs. Dhanji Deoji & Sons, Tisra, and their workmen employed in the Tisra colliery.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT DHANBAD.
REFERENCE No. 32 OF 1951.

PRESENT:

Shri L. P. Dave, B.A., LL.B.—*Chairman.*

PARTIES:

Messrs. Dhanji Deoji & Sons, Tisra

AND

Their workmen in the Tisra Colliery.

APPEARANCES:

Shri S. S. Mukherjea, Pleader, Dhanbad, for the Management.

Shri K. R. Saran, Pleader, with Shri S. N. Jha, General Secretary, Tisra coalfield Workers' Union, for the workmen.

AWARD

The Government of India in the Ministry of Labour, by their notification No. LR.2(356), dated 28th November 1951, referred to this Tribunal the dispute between Messrs. Dhanji Deoji and Sons and their workmen employed in the Tisra Colliery in respect of discharge from service of Shri Jairam Nonga. The usual notices were issued and the parties filed their respective statements. On the retirement of my predecessor Shri S. P. Varma, this dispute was referred for adjudication to me by the Government of India under notification No. LR.2(395), dated 4th February 1953.

2. The case of the workmen is that the management of the colliery of Dhanji Deoji and Sons discharged one workman named Shri Jairam Nonga from 24th March 1951; that this discharge was arbitrary and high handed; that the facts alleged in the letter of the management dated 24th February 1951 were false and fabricated; that Jairam Nonga neither wanted to leave the work nor did he ever express his desire to be relieved; that his letter to the management, dated 21st March 1951 clearly showed this; that no charge-sheet was served on the said Jairam Nonga; that he had not submitted his resignation and therefore he was entitled to full pay and bonus.

3. The reply of the management was that Jairam Nonga was a surface-in-charge and was performing only supervisory duties and as such he was not a workman It was further contended that said Jairam was in the employment of the management for a long time with occasional breaks, and although his sardarship certificate was concelled by the Department of Mines, the management retained him in service as surface-in-charge out of pity for him. It was also alleged that it appears that Shri Jairam was in the hope of getting service with higher salary at some other place and wanted to leave the above colliery. It was then alleged that on 24th February 1951 Jairam was asked by Shri Rathor, Managing Partner of the Colliery, to supervise the empty tubs etc. but Jairam refused to do so in a most insolent manner and asked Shri Rathor to relieve him at once from service

Jairam was thus guilty of serious misconduct and the management would have been justified in dismissing him without any notice but it took a lenient view and gave him a month's notice dated 24th February 1951; that they would relieve Jairam from 1st March 1951 agreeing to pay one month's notice pay. It was lastly alleged that Jairam appeared to have failed to secure any appointment elsewhere and hence he made a belated attempt by his letter, dated 21st March 1951 to get his old job. The management therefore claimed that Jairam was relieved from service at his own request and that he was not entitled to claim reinstatement.

4. Following issues were framed:

1. Is it proved that the discharge of Shri Jairam Nonga was legal.
2. Is he entitled to be reinstated?
3. What compensation, if any, is he entitled to.

5. My findings are:—

1. Yes.
2. No.
3. No compensation; but he should be paid Rs. 491-12-3 as being due to him for wages, notice pay, etc.

6. One Shri Jairam Nonga was in the service of the Tisra colliery belonging to Messrs. Dhanji Deoji & Sons. On 24th February 1951, a letter was addressed to him by the management to the effect that as desired by him to relieve him from service, the management informed him that they would relieve him from service from 1st March 1951, and that he should take away his dues together with the notice pay on any day during office hours. The case of the management is that on the above day, the Managing Partner received a complaint that the empty tubs were not supplied properly underground. He thereupon sent for Jairam Nonga and asked him to carry out the order of the supervising of the supply of empty tubs underground. On this, he Jairam Nonga, became angry and told Shri Rathor, Managing Partner, that it was not possible for him to carry out the orders and that he should be relieved. Thereupon the management wrote the above letter agreeing to relieve him from 1st March 1951. The management also agreed to give him notice pay for one month. The case of the workmen is that Shri Jairam Nonga had never expressed a desire to be relieved from service, (that is, he never tendered his resignation) and that the allegations of the management in the above letter were not true. It is further alleged that as no charge sheet was served on Jairam Nonga, his discharge was illegal and he should be reinstated.

7. A preliminary objection was raised on behalf of the management that this reference was not competent as it did not relate to an industrial dispute. It was argued that Shri Jairam Nonga was not a workman as defined under Section 2(s) of the Industrial Disputes Act, 1947 and hence there could not be any industrial dispute as defined in Section 2(k) of the Act. It is not in dispute that a reference can be made to this Tribunal only when an industrial dispute exists or is apprehended. If there is no industrial dispute, the reference would not be valid and would fail on that account and this was conceded by both the sides before me.

8. An industrial dispute is defined in Section 2(k) of the Act as meaning a dispute or difference between employers and employees, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour of any person. It was not disputed before me that even if the dispute related to the employment or non-employment of one individual workman, it would still be an industrial dispute, if the case of the workman was taken up by the workmen as a whole. In the present case, though the dispute relates to the employment or non-employment of an individual person namely Shri Jairam Nonga, his case has been taken by the Tisra Coalfield Workers Union. It was however contended before me that Jairam Nonga was not a workman and hence the dispute regarding his employment or non-employment could not be said to be an industrial dispute. It is true that Section 2(k) mentions that the dispute should be regarding the employment or non-employment of "any person" but as has been held in full bench case of "the United Commercial Bank Ltd. *Vs.* Shri Kedar Nath Gupta"; reported at 1952-I, L.L.J., page 782, the term "any person" appearing in this definition relates only to a workman, that is a dispute must be relating to employment or non-employment of a workman; otherwise it would not be an industrial dispute. A similar view has been taken by the Bombay High Court in the case of "N. K. Sen and others, *Vs.* Labour Appellate Tribunal of India and others" reported at 1953, Vol. I, L.L.J., page 6. We must therefore consider whether Jairam Nonga was a workman as defined in Section 2(s) of the Industrial Disputes Act, 1947.

9. That section defines workman as meaning any person employed in any industry to do any skilled or unskilled, manual or clerical, work for hire or reward. It

is not in dispute that Jairam Nonga was not doing any clerical work. According to the employers he was not employed in doing any manual work, but his duties were purely supervisory. In para. 4 of the written statement, the employers have specifically alleged that Jairam Nonga was working as a surface-in-charge and was performing supervisory duty and as such, he was not a workman. In this connection, I may point out that in para. 1 of the Union's written statement, they have mentioned that the discharge of Jairam Nonga in charge of the colliery was arbitrary and high handed; that is, they have described Jairam Nonga as "being in charge of" the colliery. It may then be noted that in the notice of discharge given by the management to Jairam Nonga on 24th February 1951, he has been described as "in charge" (see Annexure A to the written statement of the employers). In his reply to this notice, jairam Nonga has not denied that he was "in charge". Shri B. J. Rathor, who is the Managing Partner of this colliery, has stated in his evidence that Shri Jairam Nonga was surface in charge of the colliery and as such, his duties were to supervise the work on the surface. He has not been cross-examined on this part of his evidence. There is no evidence to the contrary. Shri Jairam Nonga, though present in court, was not put in the witness box and he has not denied that he was surface in charge nor has he denied that his duties were only supervisory. On the evidence on record, I have therefore no hesitation in holding that Jairam Nonga was not employed to do any skilled or unskilled, manual or clerical, work but that he was employed to do only supervisory work. That being so, he could not be called a workman within the meaning of section 2(s) of the Industrial Disputes Act, 1947. It would follow from this that there is no industrial dispute and the reference would fail on this ground.

10. Even on merits, I think that the reference must fail. It is not in dispute that on 24th February 1951, the management gave a notice to Jairam Nonga informing him that they would relieve him from service from 1st March. The notice mentions that this was as a result of Jairam Nonga's own desire. The Union have in their written statement contended that the above allegation of the management is false and fabricated. We have however the evidence of Shri B. J. Rathor, Managing Partner of the colliery, to the effect that on 24th February 1951 he received some complaint about the empty tubs being not supplied underground. Thereupon he (Rathor) called for Jairam Nonga and asked him to carry out his order of supervising the supply of empty tubs. He has further said that on this, Jairam Nonga became angry and told him that it would not be possible for him to carry out the order and he (that is Jairam Nonga) further said that he can be relieved. The management took Jairam Nonga by his word and gave his notice (Annexure 'A') on the very day, stating that they would relieve him from 1st March 1951 and gave him notice pay for one month. There is no reason to disbelieve this evidence. As I shall presently show, the circumstances support the correctness of this evidence. As I said above, Jairam Nonga, though present in court, was not put in the witness box and he has not denied that he stated that he should be relieved. I believe the evidence of Shri B. J. Rathor and hold that Shri Jairam Nonga stated on 24th February 1951 that he should be relieved from service, that is he tendered his resignation. It was argued that it was not likely that Jairam Nonga would tender his resignation because he could not afford to do so and that he had denied giving of resignation in his letter Annexure 'B' to the management's written statement. It may however be noted that this letter was written by him only on 21st March 1951, that is about 25 days after he was served the notice Annexure 'A'. No explanation has been given as to why he did not immediately write to the management denying the allegation in their notice about his desire to be relieved from service. There appears to be considerable force in the suggestion made by the management that Jairam Nonga had probably got some hopes of being employed elsewhere. Someone might have informed him that he would be taken up in service and that is why when he was scolded on 24th February 1951, he tendered his resignation. In this connection, I may mention that the notice served on him mentions that he would be relieved from 1st March 1951 and still he remained absent from duty from the very next day. No explanation has been given as to why he should have stopped attending his duties from 25th February 1951 when the management informed him that he would be relieved on 1st March 1951. It is quite likely that on receipt of this notice, he must have gone to the persons who had told him that they would employ him but he must not have got any employment. It was only after he must have found that his hopes of getting employment elsewhere were not likely to be realised that he sent the letter Annexure B, dated 21st March 1951. If he had really not tendered his resignation of 24th February 1951, he would have immediately denied that fact when the notice Annexure 'A' was served on him, and not waited for such a long time before sending the reply Annexure B. Further, he would not have absented from the next day. His conduct thus shows that he must have tendered his resignation on 24th February 1951.

11. I may then point out that it appears that after this the matter was taken to the Regional Labour Commissioner and he wrote a letter Annexure 'C' to the management on 24th September 1951. In this letter, the management was requested to pay up all arrears due to Jairam Nonga including one month's pay in lieu of notice. Sometime after this, on 3rd October 1951, the Tisra Coalfield Workers Union wrote a letter to the management referring them to the above letter of the Regional Labour Commissioner and requested the management to pay the salary of Jairam Nonga upto 24th September 1951 plus one month's notice pay. It further requested the management to pay the train fare to Jairam Nonga who was entitled to the same under the C. B. Award. It is significant to note that neither the letter of the Regional Labour Commissioner nor the letter of the Union makes any reference to the re-employment or reinstatement of Jairam Nonga nor does it make any mention of any damages payable to him for wrongful discharge or dismissal. This also shows that the allegations of the management that Jairam Nonga had voluntarily resigned his service and that is why he was given a notice of discharge appear to be correct.

12. It was argued on behalf of the workers' Union that no charge-sheet was served on Jairam Nonga and hence his discharge was illegal. Shri Mukherjea on behalf of the management said that Shri Jairam Nonga was not discharged because of misconduct or insubordination but he was discharged because of his own resignation and also because the management had a right to discharge any one on giving a month's notice under order 22 of the standing orders for the coal mining industry. The conduct of Shri Jairam Nonga in refusing to carry out the order of the Managing Partner no doubt amounted to insubordination and the management could have discharged him on that account after serving him with a charge-sheet and hearing him on the point. In such a case, he would not have been entitled to any notice or pay in lieu of notice. As, however, he himself expressed a desire to be discharged, the management, instead of charge-sheeting him for insubordination and dismissing him on that ground, took the course of giving a notice of discharge with a month's notice pay. In my opinion, they were perfectly entitled to do so, because Jairam Nonga had himself expressed a desire to be relieved from service.

13. On the whole, after considering all the matters placed before me, I am of opinion that the discharge of Jairam Nonga was valid and legal and hence he is not entitled to be reinstated.

14. In view of my above finding, Shri Jairam Nonga is not entitled to any compensation or damages for wrongful discharge or dismissal. It however appears that all his wages have not been paid to him. It further appears that an amount of Rs. 453-6-0 was sent to him by Money Order as per letter Annexure 'D' and the Money Order receipt Annexure 'E'. But the same was refused by him. Shri Mukherjea on behalf of the management conceded that this Tribunal was competent to pass and should pass an order, awarding the amount of wages due to Shri Jairam Nonga. The management have given details of the amount, said to be due to him in the letter Annexure 'D'. In doing so, they have not awarded full wages for the months of January and February to him. His pay appears to have been Rs. 85 per month and for February, an amount of Rs. 74-6-0 is shown as due to him. In this month, he absented from 25th and the amount shown as due to him appears to be proper. But for the month of January, an amount of Rs. 81-13-0 is shown as due to him. No reasons are given why the full amount of Rs. 85 is not shown as due to him for that month. I would award him full amount of Rs. 85 for the month of January. An amount of Rs. 28-6-0 has been deducted and details thereof were said to be given in a separate sheet of paper; but that sheet has not been produced before me nor any details mentioned as to why that amount is deducted. I would disallow that item. That would mean that the amount that would mean that the amount that will be due to Jairam Nonga would be Rs. 491-12-3 will be due to Jairam Nonga would be Rs. 491-12-3 and I would order that the management should pay him this amount as being due for his wages. This includes one Month's notice pay, railway fare, proportionate bonus etc.

I therefore hold that Jairam Nonga's discharge was legal and that he is not entitled to reinstatement or damages but that he should be paid Rs. 491-12-3 by the management as the amount of wages due to him including notice pay and railway fare. This amount should be paid within 15 days of the publication of this award. I give my award accordingly.

(Sd.) L. P. DAVE, *Chairman*,
Central Government's Industrial Tribunal,
Dhanbad.

DHANBAD;
The 30th March 1953.

[No. LR-2(356).]

S.R.O. 723.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Calcutta, in the industrial dispute between the Empire of India Life Assurance Co. Ltd., Calcutta, and their workmen.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1, Gurusaday Road, Ballygunge, Calcutta-19.

BEFORE SHRI K. S. CAMPBELL-PURI, B.A., LL.B.—*Chairman.*

Reference No. 16 of 1951

BETWEEN

The Empire of India Life Assurance Co. Ltd., Calcutta

AND

Their workmen.

APPEARANCES:

Shri D. L. Sen Gupta, Advocate, assisted by Shri Puspamoy Das Gupta, Jt. Secretary, Insurance Office Employees Association of Bengal and Shri S. N. Basu, Secretary Empire of India (Calcutta Branch) Employees Union, for the employees of Empire of India.

Shri N. K. Mukherjee and Shri D. M. Lahiri, Advocates, assisted by Shri P. K. Sen, Acting Branch Secretary, for the Company.

AWARD

This dispute is the remnant of one dozen industrial disputes referred for adjudication to this Tribunal sometime in the first week of December 1951, under Ministry of Labour Notification No. LR.90(120), dated 28th November/4th December 1951 in relation to the Employers of 12 insurance companies and their workmen. The proceedings continued for pretty long time and necessitated about 30 hearings from January 1952 onward. It may be noted with satisfaction that 10 companies out of 12 arrived at amicable settlement with their employees through the Employees Unions and the awards were submitted in terms of the respective agreements. The dispute relating to Insurance of India Ltd. registered as Reference No. 15 of 1951 in this office and the present dispute existing between the Empire of India Life Assurance Co. Ltd., and their workmen (Ref. No. 16 of 1951) were only contested. An attempt was made that proceedings in both contested cases should have run simultaneously to avoid any delay in the matter of adjudication but this was not possible inasmuch as the parties in this case, asked for time for the purpose of negotiating a compromise more than once and the proceedings were adjourned several times. At long last it was said that the negotiations failed and no amicable settlement was possible. The Employers on whose initiative these adjournments were allowed, laid the blame on the Employees Unions and the Union on the other hand accused the Employers for having delayed the adjudication. This is no time to apportion the blame and I have thought it necessary to refer to this aspect of the case in the beginning in order to explain as to why and how the adjudication has been so unduly delayed.

The points of dispute are embodied in Schedule II which is reproduced as below:

SCHEDULE II:

1. Scale of pay, Dearness Allowance and house rent.
2. Bonus.
3. Provident Fund or pension, gratuity, staff insurance.
4. Hours of work.
5. Leave—casual, privilege and medical.
6. Retirement age.
7. Security of service.
8. Overtime payment.
9. Free mid-day tiffin.
10. Provision for tiffin room, library and other similar amenities.
11. Medical aid.

The Insurance Office Employees Association of Bengal represented the workmen and their case as set out in their statement of claim comprising of 8 pages and supplemented by 15 pages more may be summarised briefly as under:

That the clerical cadre of insurance companies and so of the Empire of India Life Assurance Company consists mostly of middle class people who have a

limited source of income by way of salary. And an abnormal rise in the cost of living and partition of India and particularly of Bengal have badly affected their economic condition. The Employers however failed to appreciate their difficulties and deprivations of the Employees and refused to redress their grievances, despite repeated requests. It was alleged *inter alia* that the employees did not take recourse to any drastic action and thereby avoided any dislocation in the industry. But it became necessary to put their demands in a model charter and the same was done by calling a convention of the employees under the auspices of Insurance Office Employees Association of Bengal. This charter of demand was reproduced in the statement and it deals with all the points of dispute mentioned in Schedule II. The grievances were again amplified by a supplementary statement wherein attempt was made to repudiate the position taken up by the Employers on the points involved and the contentions relating to the financial position of the company and the statutory provisions for the expenses of management, as well as the expense ratio. These shall be dealt with in the course of discussion of the issues presently. The Association also referred to various specific cases of victimization and certain other grievances.

The Employer opposed the demands on merits and raised more than one preliminary objections whereby the jurisdiction of the Tribunal was challenged on the following grounds:—

(1) That the Tribunal was not competent to take cognisance of any other demand not embodied in the Schedule annexed with the reference.

(2) That the Employees Association was not entitled to represent the workman and the Employees Union also not competent to submit charter of demands on behalf of the employees.

(3) That the Reference was not valid inasmuch as the Empire of India Life Assurance Company is no longer an Employer and the dispute if any could not form the subject of the Order of Reference without impleading the Administrator in whom the management vests by Central Government's notification published in the *Gazette of India* Extraordinary, dated 11th July 1951 (Part I, Section 1).

On merits the Employers 'pleaded incapacity' to pay and submitted that the Company had not declared any dividend for the year 1950 and the new business had shown a decline and the renewal expense ratio also had indicated an increase beyond the statutory limits. It was alleged that the Company was not in good financial position to make any increase in the salaries and furthermore the employees have been getting regular increments and their emoluments compare favourably with other companies of the same status. It was also urged that the employees of Calcutta Branch are mostly non-matriculates and their nature of work is of a routine and mechanical type. They belong to the category of junior grade staff and their minimum pay of Rs. 55 per month is a fair salary. The Employers also denied that the clerical staff comprises of two Classes *viz.* Class IIIA and IIIB as alleged by the Union and submitted that they all belong to junior grade staff. The other demands were opposed on the plea of inability to pay and similar reasons.

The Insurance Employees Association in support of their pleas examined three witnesses including the Secretary of the Empire of India Employees Union. The Employers examined Shri R. B. Pradhan, the Manager of the Company, who deposed on almost all the points in question and explained the financial position of the company at some length. It was however the documentary evidence which was mostly referred to in the course of arguments and this comprises of fairly large number of documents of various kinds including copies of insurance magazines, Balance Sheets and charts giving comparative tables of other companies in regard to the emoluments of the staff and the amenities enjoyed by them. The documents exhibited on the record on the Union side go from A to Z and furthermore from AA to FF. These exhibits also include the inspection notes taken by the Union representatives from the record of the company Ex. B to Ex. G. These notes extend over about 50 pages wherein bills of officers of the head office and the branches as well as extracts from Attendance Registers, circulars, proposal register, policy dockets, branch salary bills from 1948 onward etc. were entered. On the other hand the Employers produced copies of two High Court judgments, Exs. 2 and 22, annual reports and statement of accounts of company (Exs. 3 to 7) and a statement of the new business completed, and total premium income (Ex. 8), premium income of Calcutta renewal since 1951 (Ex. 9), the prospects of the Empire of India company Ex. 10 and some charts relating to the declining value of investments and securities, establishment expenses, reduction of pay officers etc. (Ex. 11 to Ex. 15) and some other correspondence. A statement giving the names of all the employees with their date of appointment, designation and emoluments from 14th July 1948 to 1st July 1950 was also filed (Ex. 20).

But before dilating upon the evidence and on the facts of the case it is necessary to dispose of the preliminary objections raised by the Employers with regard to the invalidity of the Reference and on the point of jurisdiction of the Tribunal. Shri Mukherjee arguing on behalf of the Employers contended that the Order of Reference was invalid inasmuch as the demands other than those mentioned in Schedule II cannot form the subject matter of dispute and the Tribunal has no jurisdiction to adjudicate on them. This objection on hearing both sides was disposed of by my detailed order dated 11th October 1952 whereby it was held that in purview of the amended Act No. XVIII of 1952 and with the addition of Sub Section (4) to Section 10 the Tribunal was not competent to take cognizance of any other matter not mentioned in the Schedule annexed with the Reference. The next objection relating to the authority of the Association to represent the workmen and that the Tribunal has no jurisdiction because the workmen did not disclose any date of submission of the alleged charter of demands in the written statement are obviously untenable and were not pressed at the time of arguments. The same is repelled.

The Counsel however made considerable argument on the third objection *viz.*, that the Order of Reference is invalid because the affairs of the Empire of India Life Assurance Company are being managed by an Administrator who was not impleaded a party. Reliance was placed on Annexure A, a notification dated 10th July 1951, whereby the Central Government on considering the report of the Controller of Insurance was pleased to appoint an Administrator to manage the affairs of the Empire of India Life Assurance Company with its registered office at Bombay. Shri Mukherjee while referring to the definition of 'Employer' argued that the Empire of India Life Assurance Company had no longer remained an Employer when an administrator has been appointed by the Central Government. The argument was stressed that on the appointment of the Administrator, it was either the Central Government or the Administrator who was an Employer inasmuch as the Empire of India Life Assurance Company has been suspended and as such has no longer remained an Employer. It was next urged that on the appointment of an Administrator, the Board of Directors incharge of Empire of India had gone out of office, and the functions of the Employer have been taken up by the Central Government and as such there was no dispute between the Empire of India Life Assurance Company Ltd. and their workmen. Reference was made to a Federal Court decision in W.I.A.A. case (1949—A.I.R. page 111—paragraphs 4 to 6) and Budge Budge Municipality case (Reported in Labour Law Journal—February 1953—page 97). Shri Mukherjee also cited a case reported in A.I.R. 1951 Vol. 38 page 41 (Charanjit Lal Chowdhury Petitioner *Vs.* The Union of India and Others) and on the strength of some salvaged matter from one or the other authority maintained that the control and supervision is now exercised by the Central Government and not by the Empire of India Life Assurance Company and as such the Reference was invalid. I should only say that I have not been able to follow this rigmarole argument and it appears that the learned Counsel was not clear in his mind, in differentiating the management from the actual Employer. The plea running into the argument appears to be that with the appointment of an Administrator the Empire of India Co. was no longer a party. I regret that I cannot accept this argument which appears to be wholly misconceived. The authority cited also is not in point and need not be discussed. The evidence relied upon *viz.*, the notification of the Government itself furnishes a complete answer to the objection inasmuch as it is specifically mentioned in the Notification of 10th July 1951 that the Administrator shall receive such remuneration payable out of the funds of the Empire of India Life Assurance Co. Ltd., as may be fixed by the Government. In other words the Empire of India Life Assurance Company Ltd., is functioning and as the Board of Directors owing to certain allegations of mis-management made against them has been removed an Administrator has been appointed to manage the affairs on payment of certain remuneration. This provision manifestly makes the administrator one of the officers of the Company. I had sent for a copy of the previous award made by Shri S. P. Varma, Chairman, Central Government Industrial Tribunal at Dhanbad in the matter of an industrial dispute between the Empire of India Life Assurance Company Ltd., Bombay and their workmen. (*Gazette of India*—Part II, Section 3, dated 29th September 1951, pp. 1675—1677) in order to appreciate the position adopted earlier in this connection. That reference was disposed of in terms of an agreement arrived at between the parties with the consent of the Administrator. But it does not alter the position and the learned Administrator himself has referred to the previous reference aswell as to this reference in the penultimate paragraph 8 of his report Ex. 6 in the following words:

> "There was a reference to the Industrial Tribunal by a few clerks who were retrenched by the previous management but it was settled by me amicably and the case withdrawn. There is a reference pending before the industrial Tribunal at Calcutta with regard to the scale of pay,

dearness allowance and various other matters relating to the staff at Calcutta. I am trying to settle this also, if I can, in a fair and reasonable way but the spirit of litigation is in the air everywhere.

Dated, the 12th July 1952. (Sd.) R. VARADACHARI, *Administrator.*"

As said above this time also move was made for amicable settlement with the consent of administrator and no less than half a dozen adjournments were granted. It follows that the Administrator did not entertain any objection regarding the validity of the Reference between the Empire of India Life Assurance Co. Ltd., and their workmen, and the learned Counsel was wrong in urging that the Empire of India Assurance Company was no longer an Employer. Finally the learned Counsel drew my attention to the judgment (Ex. 2) delivered by Mr. Justice Shah of the Bombay High Court in the matter of Empire of India Life Assurance Company *Vs.* A. Rajagopalan and others. This case arose on the application of the Directors of the Empire of India Life Assurance Company under section 236 of the Constitution of India whereby the appointment of Administrator was challenged and the learned judge while dilating upon the question of transfer of authority elaborately dealt with the question of possession and pertinently observed that the ownership of the properties was with the company and the appointment of Administrator does not amount to deprivation of possession of the Empire of India Co.

The relevant extract from the judgment may usefully be reproduced from that judgment and it reads as follows:

"It is true that the appointment of an Administrator compels the acceptance of management of the business of the Company by the Administrator exercising very wide powers, including power to vary contracts and agreements, and the Administrator is not in the exercise of those powers subject to the company, but to the controller. The question then is whether the imposition of a management by statutory authority upon the Company amounts to taking away the possession of property of the Company within the meaning of Article 31, Clause (2) of the Constitution. A reference to the provisions of section 52A, Clauses (4), (5) and (6), and section 52B and Section 52C disclose that an authority of a most extensive character is conferred upon the Administrator in the matter of carrying on business of the Company, and the Administrator is not responsible to the Company, but is responsible to the Controller, but is evident that the Legislature has not vested the property of the Company legally or beneficially in the Administrator. His management is for and on behalf of the Company and in the name of the Company. The Administrator purports to carry on the management for the Company and in the interest of the Company, and not in derogation of the rights of the Company. It is true that an agency is imposed upon the Company by statute and contractual agents have been removed but that, in my view, does not operate so as to deprive the Company of the possession of its property. Statute law in India furnishes a large number of instances in which the State imposes a right of management on the affairs of persons who are either imprudent or unable or incapable to manage their own affairs, or where it is regarded expedient in the public interest not to permit them to manage their property. Well-known instances of this kind of legislature are to be found in the Court of Wards Act, the Indian Companies Act, Indian Electricity Act, Municipal Acts of various states, Local Boards Acts, Lunacy Act, sections 145 and 146 of the Criminal Procedure Code, Gujarat Talukdars Act, Watan Act, etc. In these cases in recognising the title of the owner, the Statute makes provision for imposing an agency for management of the affairs of the owner in the selection, continuance and dismissal of which the owner has no voice, and the agent is not bound to carry out any direction given by the owner so long as the agency continues. But it is recognised that so long as the statutory agency carries on the management of the affairs of the owner for and on his behalf, the possession is regarded as that of the owner.

It is difficult to accept the submission made on behalf of the Petitioners that, wherever a statutory agency is imposed which while recognising the title enables the management to be carried on without recourse to the owner, the possession must be deemed to have been taken away within the meaning of Act 31(2) of the Constitution."

The dictum laid down in the judgment Ex. 2 manifestly runs counter to the plea advanced by Shri Mukherjee. For all these reasons I have no hesitation in coming to the conclusion that the objection is devoid of any substance and must be repelled.

This brings me to the disputed points embodied in the schedule reproduced above but before coming to tackle with the issues it would be better to take into account the main plea of the Employers in regard to their incapacity to pay and other allied questions *viz.*, statutory restrictions on the management expenses. This question was posed for discussion in the case of Insurance of India Ltd. and the same plea of statutory restriction under Insurance Act was urged. The only difference which can be taken of may be one of actual finance of the two different companies but so far the legal aspect of the question relating to the expense ratio etc. goes Shri Gupta on behalf of the Employees Union reiterated the same argument and the reply on the Employers side was almost the same as was made in the case of M/s. Insurance of India Ltd. In the circumstances I do not think it would be worthwhile to traverse the whole ground once again at any length. Of course, it is necessary to review the question regard being had to the particular facts of this case. The Employees Union in their evidence tried to show the present financial position of the Company as borne out from some of the Statements of Accounts aswell as some of the reports published in insurance journals and magazines of 1952 and of September, October and November 1951. It was urged that the finance of the company is quite stable as borne out from the latest report of the Administrator and the plea of incapacity to pay has been raised only as a device in order to deprive the employees from fair wage which is their right. It was also saught to argue that both in big and small companies the expenses in proportion to premium income remain almost the same and so the demands can be met uniformly. Reliance was placed on the scales of pay of various other companies *viz.*, Bombay Mutual, Oriental, etc. and it was urged that the implication of statutory restriction was only to curtail expenditure on field work and not to deprive the employees from fair wages to which they are entitled.

On the other hand the Employers produced evidence to the effect that the finance of the Company was meagre inasmuch as income has gone down and the very fact that the affairs of the company are being controlled by an Administrator, proves that the financial position cannot be said to be stable. It was next submitted that the staff had been receiving increments alright and the salaries are adequate. Shri Mukherjee furthermore repudiated the arguments of the Union Counsel and argued that the business of the Empire of India Life Assurance Company relates to life insurance only and the incidents of othe companies who are composite companies were not in point. It was explained that there are three kinds of premium *viz.*, single, first year's premium and renewal premium; and so far the first two kinds of premiums are concerned the Insurance Act provides certain percentage as permissible for expenses. On the basis of these percentages the amount permissible is found out by applying the percentage to the premium income. This amount is then deducted from the figure of the total expenses of management and the balance is divided by the renewal premium income and the result multiplied by hundred is the renewal expense ratio. The learned Counsel concluded that the expense ratio had already exhausted and the company is not in a position to make any increase in the scales of pay because the rate of premium which has already been increased more than once within these years cannot be revised to bring more money. Reference was made to the provisions of the Insurance Act touching the question involved *viz.*, Section 40-B and Rule 17-D and it was urged that the limitation of expenses in life Assurance business comes in the way of spending any more under the management expenses.

Now this proposition as said above has already been discussed in the previous award given in Insurance of India case (published in Government of India Gazette January 31st 1953) and while adopting the same reasoning and applying the test already laid down the question for determination is whether the plea advanced by the company when considered in the light of the reports of the management on the question of finance is tenable. These reports were exhibited on the record by both sides but it would be better to refer to the documentary evidnce of the Employers themselves in this matter. To begin with the latest report for the year 1951—Report and Accounts 1951 (Ex. 7), may be quoted profitably *in extenso* dealing with the progress of business in the year 1951. This reads as follows:

Ex 7: pp. 4-5.

"7. PROGRESS OF BUSINESS IN THE YEAR 1951:—

New Business.—During the year 10,253 policies were issued assuring a sum of Rs. 3,02,11,850 as against 13,302 policies assuring a sum of Rs. 3,94,14,850 during the previous year. The annual premium income from the New Business of the year was Rs. 16,55,900 as against Rs. 21,07,730 in the previous year. The fall in the New Business is due to the disturbed conditions in the management of the company since October 1950. A steady flow of New Business constitutes the

life-blood of every well-run Life Office, but it should represent the normal expansion which the organisation is capable of procuring at a reasonably economical cost. This consideration was practically ignored by this Company, since 1947 and 'New Business at any cost' seems to have been the key-note for some years. As a matter of fact the New Business figures did make an impressive reading on paper, for instance in 1948 a record New Business of Rs. 6 crores was written but the expenses of management increased to the high figure of 33·8 per cent. of the total premium income. In the year 1945 when the New Business was done to the extent of Rs. 2·3 crores, the expense ratio was only 23·5 per cent. and an increase of over 10 per cent. on this was most uneconomical and extravagant, the more so as most of such 'forced' business has lapsed soon after. So far as the year 1951 is concerned, the percentage of lapses to the total business in force at the beginning of the year was 6, as against 9·68 in the previous year. This is some improvement, but to a man like so, who has newly come into the Insurance field, the most striking feature is that in no other business in India at present is there competition of the cut-throat type as in Insurance: and it is this unhealthy and unfortunate feature that is responsible for the heavy lapses in almost all companies. Such lapses constitute a drain on the national income benefiting nobody in the long run."

In another paragraph under the heading 'Business in Force' it has been stated that the total number of policies in force as at 31st December 1951 was 1,36,606 assuring a sum of Rs. 29,60,63,382 inclusive of bonuses of which Rs. 30,87,041 inclusive of bonuses is re-assured. Under the heading 'Income and Outgo' it is further stated that the income for the year amounted to Rs. 1,49,26,775 (after deduction of tax at course) of which Rs. 1,20,40,683 was derived from premiums. The Outgo amounted to Rs. 1,11,05,831. The excess of the Income over the Outgo is Rs. 38,20,944. It can be seen accordingly that over all position of the company including the premium income from which the management affairs are to be handled appears to be very favourable as borne out from this report. Annexure B (Ex. 8) is another statement which gives figures of the new business completed and the total premium for the years 1947 to 1951 but the total premium income is not given against the year 1951. The renewal expense ratio according to this exhibit in the year 1951 was 19·4. Other statements Exs. 10, 11 and 12 relate to the investments and on the examination of these statements although it appears that the value of investments, securities and shares have gone down but I think I shall be travelling beyond the point which requires probing into the premium income mostly from which the management expenses are to be incurred. The Establishment Expenses for 1949—51 are detailed in another statement (Ex. 13) and the comparative table shows that the Assistants whose case is on the anvil get Rs. 62,595/3/- in 1951 as compared with the salaries of 1950 amounting to Rs. 67,970/14/-.

Coming to the documentary evidence adduced by the Union side the report published in 'Empirila'—a house magazine published by the Empire of India Life Office. Coimbatore—at page 4 gives a table showing progress in new business, total business, premium income, life fund and claims paid. Under the heading 'premium income' the figure shown against December 1950 is Rs. 1,18,88,595. The Union representative also filed some of the magazines with reference to particular note and remarks about the position of the Empire of India Life Assurance Company, published in Insurance Underwriter—November and December 1951 and Insurance World September 1951; but on going through the marked pages I find that these are casual observations either made by the Administrator or other persons with regard to the position of the Company which do not give an exact idea about the finance of the company. In point of fact how I feel about this matter is that the management of the company having been put under the control of an Administrator presumably indicates that the house is yet to be put in order but the question for determination is whether demands of the employees cannot and should not be considered for want of finance as sought to be argued by the Employer side. Now on the strength of the data referred to above my impression about the finance of the company is (as observed generally by the learned Administrator himself in his report also) but the financial position of the company is quite safe. Shri Pradhan in his statement in cross-examination also deposed that the last valuation discloses that the mortality rate is in our favour and the premium structure is framed taking into consideration the mortality and expenses of management which include salaries and other emoluments of the employees. The witness pleaded his inability to show what provision was made in the premiums for expenses on the salaries and emoluments of the employees. He also deposed that according to the last valuation the

company had made profit but further stated that he could not state definitely that profit shown was solely due to the saving made on salaries and emoluments of the staff. He was also not able to state as to what fraction of profit is due to the saving of money from salaries item. On another question Shri Pradhan stated that he could not give the number of men engaged in procuration of business and also could not give the percentage of expense of the total expense ratio over their salaries. In the absence of any such data as to what has been spent upon the employees, and whether it is a fair proportion of the management expenses; the real trouble lies in the disbursement of the expenses of management and loading the expenditure on various items under the management expense. The plea of non-capacity to pay as such does not come in the way of considering the issue relating to the revision of scales of pay and the danger of exceeding the expense ratio is only apparent than real. The other question is of contravening the provisions of Section 40(b) regarding the expenses of management. This again appears to be not so rigid as urged because the company cannot be deemed to have contravened the provisions of this section if the excess amount so spent is within such limits as may be fixed in respect of the year by the Controller inasmuch as it is provided in the statute that in case any contravention of provisions of Section 40(b) occurs the insurer shall be given opportunity of being heard by the Controller. It follows that the contravention is not made penal when it is done in good faith. The learned Administrator in his report has also said that the ratio of expenses of management to premium income during the year works out to 29·70 per cent. which shows a reduction of 3.10 per cent. as compared with the last year's figure. It is however not in evidence that the management has been pulled up for having exceeded the expense ratio and furthermore the question of the revision of pay scales is a matter which is to be considered henceforward or at the earliest from the year 1951 and the figures about 1951 are not given as borne out from the figures given in Ex. 6. Lastly, the move for amicable settlement by the Employers as said by the Administrator in his report (Ex. 6) is also indicative of the fact that the Employer was prepared to consider the demands of their employees and the plea of incapacity was not in their way in the course of negotiations which continued over several months. Similarly, despite the objection of incapacity to pay, the Employers have made an increase in the amount of dearness allowance of their own accord. It follows that finance and statutory restrictions do not come exactly in the way of revising scales of pay etc. For all these reasons I am of the opinion that the company although passing through difficult times has the capacity and can stand the strain of the employees demands to be considered on merits within their finance. The question to my mind more or less is that the management expense comprises over various items and the same can be adjusted by accommodating the employees also who admittedly play an important role in the prosperity of the company. The result is that the plea of incapacity to pay is negatived and the case shall be considered on merits issue-wise.

Issue No. (1)—Scale of Pay, Dearness allowance and house rent.—The demand in the matter of scales of pay as set out in the charter of demands is as follows:

Class III—Clerks, etc.

A—Rs. 160—10—230—15—320—20—400—25—450.

B—Rs. 110—8—150—10—200—15—290—20—350.

Vlass IV—Sub-Staff:

Rs. 65—3—80—4—100—5—150.

The Union, as borne out from the above quotation, has chosen to split up the clerical staff into two grades A and B and their demand as subsequently argued is that the clerks of A class should comprise over Departmental Incharges and Supervisory staff and they should start with a salary of Rs. 160—10—230—15—320—20—400—25—450 as detailed in the charter of demand. While others, *viz.*, Office Assistants, typists and clerks be treated under B class and should start with Rs. 110—8—150—10—200—15—290—20—350. The underlying idea manifestly is that there should be two grades of clerks *viz.*, A of the Upper Division and B of the Lower Division. The demand is understandable but the difficulty is that grades are not existing at the time and the whole clerical staff is being treated as one class namely Assistants. The Employees Union did not choose to file any chart giving the names of the employees with their starting salary and present emoluments as they did in the case of Insurance of India but the Employers have filed a statement Annexure C (Ex. 20) which indicates that excepting one or two all employees under the column of designation are spoken as Assistants. This chart does not give any idea of the starting salary of each employee but on 14th July 1948 when Calcutta Branch according to the Employers statement was started and came directly under the control of the company on the termination of Agency of Messrs. D. M. Das & Sons on whatever salary the staff was getting at that time appears to have been noted

in the column of salary. In the light of Ex. 20 the Assistants used to receive not more than Rs. 40 as the basic salary in July 1948. The amount of salary drawn in July 1950 i.e. two years after as evidenced from this chart (Ex. 20) however ranges from Rs. 55 to Rs. 185. It follows that the staff was getting some annual increment although no scale of pay or grades have been fixed by this time. This state of affairs is indeed unfortunate that why a company of the standard of the Empire of India Life Assurance Company have not by this time admitted their staff to grades but it cannot be helped in the absence of any specific issue, relating to grades or classification in the points sent for adjudication by Order of Reference. I am therefore of the opinion that classification for the purpose of grades does not form the subject of reference and the Tribunal cannot enter into that point in purview of Section 10(4) of the Industrial Disputes Act, 1947 whereby the adjudication is confined to the points referred to by the appropriate Government. Of course the scales of pay of the staff shall have to be determined. As said above chart (Ex. 20) reveals that there is no standard or starting pay and if one clerk started with Rs. 60 or Rs. 70 another accepted Rs. 30 so far the clerical staff was concerned. In the case of sub-staff as evidenced from this chart some of them started with Rs. 14 although they are now getting from Rs. 25 to Rs. 47 as basic salary. The Union representative relied upon the grades and scales of pay of other companies and produced charts Exs. AA, BB, CC, DD, EE and FF relating to (1) Bombay Mutual Life Assurance Society, Calcutta, (2) National Indian Life Insurance Company, (3) Jupiter General Insurance Company, (4) New India Assurance Company, (5) National Insurance Company and (6) Agreement of the Bombay Mutual Assurance Society and their employees respectively. Some of these companies are of long standing and deal in composite business. The charts therefore cannot be treated as parallel instances more especially when data relating to no less than 11 more companies which were initially bracketted with this company under this very Reference is available. The demands of the Union moreover as formulated in the charter were sought to be made uniformly in the case of all these one dozen companies mentioned in Schedule I and consequently the scales of remaining 11 companies would form a better parallel for the purpose of comparison. Of these eleven companies No. 11/51 (New India Assurance Company Ltd.), No. 14/51 (Calcutta Insurance Company Ltd.), No 17/51 (United India Life Assurance Company Ltd.), No. 19/51 (All India General Insurance Company Ltd.) and No. 21/51 (India Equitable Insurance Company Ltd.) composed their differences with their employees out of court and the Employees Union withdrew their claims. There is accordingly no data regarding these companies in this office. Five more companies namely No. 10/51 (National Fire and General Insurance Company), No. 12/51 (National Indian Life Insurance Company Ltd.), No. 13/51 (National Insurance Co. Ltd.), No. 18/51 (Rajasthan Insurance Company Ltd.) and No. 20/51 (East-India Insurance Company Ltd.) came to amicable settlement and regular deeds of settlements were brought on the record and the same were implemented in the swards and can serve a useful data for the purpose of drawing scales of pay. Now in the case of National Fire and General Insurance Company (10/51) and National Insurance Company (13/51) the starting pay of the clerical staff has been raised to Rs. 70 and an increase of Rs. 5 at a flat rate has been made in the salary. Regarding National Indian Life Insurance Company Ltd. (12/51) a flat rate of increment of Rs. 5 per mensem in the basic salary has been given to all clerical staff. Similarly, in the East India Insurance Co. Ltd. (12/51) an *ad hoc* increment of Rs. 5 has been allowed to all clerks. In the case of the Rajasthan Insurance Company Ltd. (18/51) increase has been made in the scales according to the classification of the employees and so far office Assistants are concerned the scale agreed upon stands as follows:

Rs. 60—5—85—6—115—7—150.

It is significant to note that in the case of the aforesaid companies the Insurance Office Employees Association of Bengal was a party but still the learned Counsel in this case has pressed for the starting salary of Rs. 110 and Rs. 160 relating to this company. The demand obviously does not appear to be consistent and I think it would not be safe to work upon the data brought on the record by the production of various charts Exs. AA to FF pertaining to the companies named above. The demand furthermore also appears to be extravagent inasmuch as an increase in the starting pay from Rs. 55 to Rs. 110 or from Rs. 70 to Rs. 160 would go beyond legitimate limit more especially when the qualification for the clerical staff for recruitment is Matric. I am conscious of the lot of those who have been under service since long although they are matriculate or non-matriculate but the amelioration of their lot owing to rise in the cost of living can be compensated by the grant of dearness allowance and not exactly by making an abnormal increase in the scale of pay as urged by the Employees Union. The academic qualifications,

the nature of work, the financial position of the company and several other factors contribute to the fixture of scale of salary and the demand based merely on the plea that others are getting more in other companies or that the head office staff is better paid does not justify the increase asked for in the matter of fixing the scales of pay for the clerical staff Some of them must have gained good experience to go into the next cadre but as explained above the difficulty is that the question of grades has not been referred and it seems clear to me that the Tribunal is not competent to create any new post for the absorption of experienced hands out of the Assistants. The sole question for determination of the Tribunal is as to what should be the scales of pay in consideration of the prevailing state of affairs of course regard being had to the finances of the company. It is in this perspective that I would like to take a broad view of the general position of the employees working in this company. Now in the case of Insurance of India (15/51) the scales of pay allowed to the clerical staff were Rs. 65—5—90—6—120—7—155. Shri Pradhan, the Manager of the Company in the course of the examination as his own witness as well as in the course of arguments which were heard in his presence was asked as to what status he was prepared to give to his company by way of comparison. He however pleaded his inability to give any definite reply. This has naturally put me to scrutinize further into the revenue account of the Insurance of India and that of the Empire of India Life Assurance Company. On going through the revenue account ending 31st December 1951 under the heading 'Expenses of Management' as shown under the column of total in the case of Empire of India are Rs. 10,40,63,343-3-4 as against Rs. 41,18,381-9-6 in the case of Insurance of India. In other words the premium income in the case of the Empire of India is manifestly higher than that of Insurance of India. With this background it seems clear to me that the status of the Empire of India so far their business goes is higher than that of the Insurance of India. In this connection the other consideration would be of the number of employees and I see that the number of employees is larger with the Empire of India as compared with the Insurance of India and this also cannot be lost sight of. At any event in view of the general financial position I feel inclined to put 'The Empire of India Life Assurance Company' staff on some higher level than the Insurance of India in fixing scales of pay.

Before doing so one more factor is to be considered which was also streneously urged by the Union side. This relates to giving effect to the finding about the revision of scales of pay retrospectively point to point from the beginning of service. A considerable argument was advanced dilating upon the pitiable condition of the middle class clerical staff and their sufferings owing to low wages but it appears that the Union conveniently forgets that the Tribunal in the first place is not competent to give retrospective effect from the date when the Industrial Disputes Act even did not come into existence nor the charter of demands was presented. Secondly, the demand by itself has no merit inasmuch as those who joined the service accepted the scale of salary prevailing at that time and were given regular increments and their previous history cannot form the subject of investigation in this Reference. Of course it is in evidence that they have not received any increment since 1950 owing to the dispute existing between the parties and the reference made to the Tribunal and as such I think they are entitled to some *ad hoc* increment at the outnet in order to avoid any complication in the matter of previous increments which have either been withheld or not allowed. I would therefore hold that the clerical staff would get an *ad hoc* increment of Rs. 5 (Rupees five) and Sub Staff Rs. 3 (Rupees three) from 1st January 1952 and the following scales of pay for both are framed to be enforced from the date when the award becomes operative:

Clerical Staff—Rs. 70—5—95—6—125—7—160—E.B.—10—210.

Sub Staff—Rs. 30—3—45—2—55—1—60.

It is furthermore made clear that the existing staff will be fitted at the next stage of their scale of salary they are drawing now, after giving effect to the increment of Rs. 5 and Rs. 3 respectively allowed above in the scales to be introduced by this award. And those who are drawing more shall not be staggered from their present emoluments.

[By way of illustration, if one happens to receive Rs. 82 at the time of the enforcement of the award his salary with an addition of Rs. 5 ad hoc increment, would come to Rs. 87 and as such he shall be fitted in the scale at Rs. 90. Similarly, one getting Rs. 84 with an addition of Rs. 5 ad hoc increment shall also be fitted at Rs. 90. .....So on. Furthermore, those who are drawing more than the present scale mentioned above as borne out from Ex. 20 (statement of Empire of India employees emoluments etc.) shall not be staggered from their present salary or other emoluments].

Dearness Allowance.—The case of the Union is that taking the year 1946 as the base year the employees are entitled to dearness allowance at the rate of 1½ per cent. of the salary for every one point rise in the cost of living index subject to a minimum of Rs. 50. The Employees representative cited instances of various other companies and pressed the demand for an increase on the lines of other companies. The company on the other hand opposed the demand mostly on the plea that they have made an increase quite recently during the pendency of proceedings of this Tribunal by allowing an increase of Rs. 8 in the case of clerical staff whereby the dearness allowance of Rs. 37 has gone up to Rs. 45 and in the case of sub-staff an increase of Rs. 5 has been made with the result that the amount of dearness allowance paid to them *viz.* Rs. 22/8/- has risen to Rs. 27/8/-. In other words an *ad hoc* increment has been made of Rs. 8 and Rs. 5 respectively in the case of clerical staff and sub staff. In the case of other companies which were consolidated in this Reference in the first instance increase was made at a flat rate of Rs. 5 to the clerical staff and Rs. 2 to the sub-staff. The increase made by the Empire of India stated above is accordingly higher than compared with other companies. I am, therefore, of the opinion that the demand has been substantially met and needs no further consideration.

House rent.—The demand is for the grant of a house rent of Rs. 15 per mensem minimum to those drawing Rs. 100 with an increase of Rs. 5 to those drawing above according to the scale given in the statement of claim. The company opposed the demand on the plea that the recruitment of employees is made from the local people and it was also urged that the company is not in a position to grant such concession in the present financial position of expense ratio. The plea of the company with regard to local recruitment was not denied and in my opinion no case has been made out for the grant of house rent. The same is disallowed.

Issue No. (2).—*Bonus.*—It was urged in the statement of claim that the employees should be given bonus equivalent to three months' salary with allowances every year. The Employers in reply stated that they have been allowing bonus of one month's salary despite financial stringency but now the Insurance Amendment Act has restricted payment of bonus and the same cannot be paid without reference to the Central Government. It was further submitted that the present position of expense ratio of the company does not permit of any such extra expense. The question of bonus to be paid to the employees may be a legitimate demand because it works as an incentive but the real question for determination is as to whether insurance companies can be called upon to pay bonus to their employees on the lines of commercial concerns like banks, textile mills and other mercantile firms, and furthermore the Insurance Act permits to make such payment. The Union representative this time produced a copy of the circular whereby it was claimed that no permission of the Central Government is necessary when the bonus to be paid does not exceed an amount equivalent to two months' salary. The circular referred to above however does not alter the position so far the statutory restriction in the grant of bonus u/s 31A(7) goes. The point for determination precisely is as to whether the Tribunal can give any award with regard to payment of bonus in relation to disputes existing between the insurance companies and their workmen. Sub-section (7) of Section 31A reads as follows:

> "(vii) the payment of bonus in any year on a uniform basis to all salaried employees or any class of them by way of additional remuneration such bonus, in the case of any employee, not exceeding in amount the equivalent of his salary for a period which, in the opinion of the Central Government, is reasonable having regard to the circumstances of the case."

The wording "which, in the opinion of the Central Government, is reasonable having regard to the circumstances of the case" is significant and I do not think that the Tribunal could either circumvent the statutory provision by taking the matter in his hands without referring the matter to the Central Government. It was admitted on behalf of the Employers that they have been paying previously one month's salary as bonus which appears not to have been paid this time. I would therefore recommend that the Employers should move the Central Government for the payment of at least one month's bonus which they have been paying to the employees previously.

Issue No. (3)—*Provident Fund or Pension Gratuity, Staff Insurance.*—The scheme of Provident Fund is already in force and the demand of the employees is that deduction of 10 per cent. of the annual salary should be made in 12 months as the contribution of the employees to the Provident Fund and the employers share of contribution should be equal to that amount. It was also claimed that 50 per cent. of the trustees be elected as representatives of the employees. The

company has filed a copy of Provident Fund Rules wherefrom it would be found that 6¼ per cent. of the employees' salary is being deducted and the company is making equal contribution towards Provident Fund. No instance was cited of the increased percentage of deduction by the other side but I have come across with instances in some insurance companies where 8⅓ per cent. deduction is made. In view of the status of this company and in the absence of any cogent evidence I don't think any case has been made out for increased deduction and the present practice which appears to be the general practice with majority of insurance companies, *viz.*, the deduction of 6¼ per cent. this shall stand. Regarding the demand of 50 per cent. representation on the Board of Trustees, no instance of any other company was cited and as such no case has been made out. In the case of the Empire of India Life Assurance Company, moreover, the question was recently considered in the High Court as evidenced from Ex. 22, copy of judgment, and in the absence of any evidence the matter cannot be considered. The demand is rejected.

Gratuity.—This retiring benefit was opposed by the company mainly on the plea that Provident Fund scheme is already in force and that the expense ratio of the company does not allow any more loading. The first contention is devoid of any substance inasmuch as gratuity has been allowed by this Tribunal in more than one insurance companies in addition to the Provident Fund scheme. This retiring benefit has been fairly recognised now by the decisions of the Labour Appellate Tribunal and other insurance companies bracketted in this reference, have also agreed to introduce the scheme of gratuity in addition to one of Provident Fund. I would, therefore, allow this demand and gratuity will be paid to the clerical staff and sub-staff in future on the terms and conditions as mentioned below:

(1) On the death of employee while in service of the company	One month's basic salary for each year of continuous service subject to a maximum of 15 months' basic salary.
(2) On retirement from service after completion of 15 years' continuous service.	Fifteen months' basic salary.
(3) On termination of service by the company except on grounds of gross negligence of duty, misconduct and fraud.	One month's basic salary for each completed year of service but not more than 15 months' basic salary.

Of course no employee will be entitled to gratuity for the period less than 5 years service. The salary for the purpose of calculating gratuity shall be the average basic salary during the 12 months next previous to death, retirement or termination of service as the case may be.

Staff Insurance.—The demand is for a free insurance policy up to the amount of Rs. 3,000 for all employees irrespective of grade or status. The company already allows some rebate in rates of premium on policies on the lives of the employees. The employees are moreover given facilities in the matter of payment of premium without any extra charge as is usually charged in other cases. No instance was cited for the grant of a free insurance policy to all the employees. The demand is disallowed.

Issue No. (4)—*Hours of Work.*—The demand was not seriously pressed. It was only submitted that the staff is made to come to office at 9-45 A.M. and the time be changed to 10 A.M. It may be a question of 15 minutes only but it has been observed in offices that the clerical staff is expected to be at their seat a few minutes earlier to the time when work actually starts. The prevailing practice accordingly cannot be said to be on the wrong side and shall continue.

Issue No. (5)—*Leave—Casual, Privilege and Medical.*—The company brought on the record a copy of the leave rules which is a detailed document. The grievance

of the Union however is that the leave rules do not come in conformity with the leave rules of other companies. It was left to the Tribunal to compare them with some other companies. No specific reference was made to any one rule nor any hardship was pointed out in the matter of leave rules and as such I do not think that any interference is called for. The other demand of the Union is that their representatives should be treated on duty when they happen to attend the proceedings of the Tribunal. This was not exactly opposed by the other side and in the circumstances it would be understood that the Union representatives are allowed to attend the proceedings and shall be treated on duty. It is however difficult to lay down any rule for the attendance of conferences by the Union representatives when they are entitled to earned leave under rules.

Issue No. (6)—*Retiring Age.*—The demand of the Union was to raise the age limit to 60 years. The Employers however urged for the retention of 55 years as superannuation age or 30 years service. In the case of other companies the retiring age has been extended to 60 years in place of 55 and I think conformity in service conditions on this matter is admissible. The retiring age accordingly is extended to 60 years.

Issue No. (7)—*Security of Service.*—There was consensus of opinion between the parties that no one could be discharged or dismissed from service without having an opportunity of submitting an explanation and after having been charge-sheeted and as such the point needs no adjudication.

Issue No. (8)—*Overtime Payment.*—The Union's grievance is that the company does not pay for overtime work. On the other hand it was stated on behalf of the Employers that no occasion had arisen when overtime work was taken from the staff. At any rate in principle the finding would be that overtime shall be paid if the employees are called upon to work after office hours or on Sundays and holidays at least on the usual remuneration.

Issue No. (9)—*Free Mid-day Tiffin.*—The prevailing practice is that one cup of tea is allowed free and the demand is for tiffin. No evidence was led as to what should be the menu of tiffin to consider the demand and furthermore I was not impressed with the demand itself. The same is rejected.

Issue No. (10)—*Provision for Tiffin Room, Library and other similar amenities.*—The question can only be considered in relation to the accommodation available at the premises of the building. It was stated that the company is located on a rental accommodation and the provision asked for cannot be made for want of accommodation. The demand of the Union was to make some reshuffling in the matter of accommodation and it was urged that some space can be spared inside the office wherein the telephone and the Agents room can be arranged conveniently and thus space may be had for the purpose of the Union's claim for tiffin room, library, etc. To me it appears more a management function than for a Tribunal to enforce any such provision. In the circumstances I would recommend to the Employers to look into the difficulty experienced by the staff in this matter more sympathetically and some place be made available to pass the interval period.

Issue No. (11)—*Medical Aid.*—The claim in this respect is that free medical aid should be afforded to all employees of the company including their family. The Employers contended that such arrangement has neither been made in Government offices nor in other commercial concerns. The financial inability and the statutory restrictions were also pleaded. It was, however, admitted that the company has medical officers and the employees can consult them during office hours free of charge. This latitude of free consultation during office hours appears to be of not much value because the demand exactly is for medical aid when one is on sick bed. As no instance has been cited where any commercial concern has agreed to provide medical aid at the houses of their employees much less in family troubles, the demand is negatived.

Now, therefore, this Tribunal makes its Award in terms aforesaid this the 2nd day of April 1953.

(Sd.) K. S. CAMPBELL-PURI, *Chairman.*
Central Government Industrial Tribunal,
Calcutta.

[No. LR-90(120).]

ORDER

New Delhi, the 11th April 1953

S.R.O. 724.—WHEREAS the Central Government is of opinion that an industrial dispute exists between the employers in relation to the South Bulliaree Kendwadih Colliery and their workmen regarding the matter specified in the Schedule hereto annexed;

AND WHEREAS the Central Government consider it desirable to refer the dispute for adjudication;

NOW, THEREFORE, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7 of the said Act.

SCHEDULE

Whether the termination of the services of Shri Nokhai Gope was in order and if not, whether he should be re-instated in service or not and in either case whether he should be paid any compensation

[No. LR.2(296).]

P. S. EASWARAN, Under Secy.

New Delhi, the 8th April, 1953

S.R.O. 725.—The following draft of an amendment in the Minimum Wages (Central) Rules, 1950, which it is proposed to make in exercise of the powers conferred by section 30 of the Minimum Wages Act, 1948 (XI of 1948) is published as required by sub-section (1) of the said section for the information of all persons likely to be affected thereby and notice is hereby given that the draft will be taken into consideration on or after the 1st June 1953.

Any objection or suggestion which may be received from any person with respect to the said draft will be considered by the Central Government.

Amendment

After rule 31 of the said Rules, the following Chapter and rule shall be added at the end, namely:—

"CHAPTER VII

MISCELLANEOUS

32. *Exemptions.*—These rules shall not apply in relation to any scheduled employment in so far as there are already in force rules applicable to such employment, making equally satisfactory provisions for the matters dealt with by these rules".

[No. LWI-24(140).]

P. N. SHARMA, Under Secy.

New Delhi, the 10th April 1953

S.R.O. 726.—In exercise of the powers conferred by sub-section (3) of section 14 read with section 24 of the Payment of Wages Act, 1936 (IV of 1936), the Central Government hereby directs that the following amendments shall be made in the notification of the Government of India in the Ministry of Labour, No. S.R.O. 1944, dated the 18th November, 1952, namely:—

In the said notification—

1. For item 25 the following item shall be substituted, namely:—

"25. The Conciliation Officer (Central), Cochin."

2. For item 26 the following item, shall be substituted, namely:—

"26. The Labour Inspectors (Central), Madras Region, with headquarters at Madras I, Bezwada, Vizagapatnam, Coimbatore, Mathurai, Trivandrum, Madras II, Bangalore and Kolar (Gold fields)."

[No. Fac.103(9).]

K. N. NAMBIAR, Under Secy.

MINISTRY OF STATES

New Delhi, the 8th April 1953

S.R.O. 727.—In exercise of the powers conferred by section 2 of the Part C States (Laws) Act, 1950 (XXX of 1950), the Central Government hereby extends to the State of Tripura, the Bengal Embankment Act, 1882 (Bengal Act II of 1882), as in force for the time being in the State of West Bengal, subject to the following modifications, namely:—

Modifications

1. Throughout the Act—

(i) except in the preamble and short title, for the word "Bengal" wherever it occurs, the word "Tripura" shall be substituted;

(ii) references to "Official Gazette" shall be construed as references to the "Tripura Gazette";

(iii) references to "a district" "the district" "any district" shall be construed as references to "Tripura".

2. In section 1, for the second paragraph the following shall be substituted, namely:—

"It extends to the whole of the State of Tripura and shall come into force at once".

3. Section 2 shall be omitted.

4. In section 3—

(i) for the definition of "Collector", the following definition shall be substituted, namely:—

"Collector" means the Collector of the district of Tripura.

(ii) for the existing definition of "district", the following definition shall be substituted, namely:—

"district" means the district of Tripura, embracing the whole of the State throughout which the Collector is authorised to exercise his ordinary functions,

(iii) for the existing definition of "estate", the following definition shall be substituted, namely:—

"estate" means any Taluq or share in Taluq included under one entry on the general register or touzi of revenue-paying Taluqs and of revenue free lands prepared and maintained or maintained in the Revenue Department, Tripura, or in the Divisional Offices thereof for the purpose of realisation of Government revenue or for purpose of record or for both,

(iv) for clause (b) of the "Explanation" to the definition of "Zamindar" the following clause shall be substituted namely:—

"(b) of every estate which is let in farm or held *Khas*".

5. In section 4, the second paragraph shall be omitted.

6. In section 5—

(i) the words "without payment of compensation for the use or removal of such earth or other materials" shall be omitted;

(ii) after the 1st paragraph, the following proviso shall be inserted, namely:—

"Provided that the Collector shall pay compensation to the owner for the use or removal of such earth or other materials and in ascertaining such compensation shall take into account the estimated value of such earth or other materials".

7. In clause (b) of section 11 for the words "Commissioner of the Division", the words "Chief Commissioner, Tripura" shall be substituted.

8. In section 6, 7, 14, 15, 17, 21, 22, 24, 34, 36, 47, 49, 53, 61A, 63, 65, 66, 67 and 90 references to the "State Government" shall be construed as references to the "Chief Commissioner, Tripura".

9. Section 12 shall be omitted.

10. In section 14 for the words "by the Commissioner", the words "by the Collector" shall be substituted.

11. In section 15—

the words from "or the State Government may authorise the Commissioner" to the words and figures "be subject to the provisions of section 85"

11. In section 15—

12. In section 19—

(i) for the word "Commissioner", the words "Chief Commissioner, Tripura" shall be substituted;

(ii) the words "to the State Government" shall be omitted:

13. Section 20 shall be omitted.

14. In section 24, for the words "Commissioner of the Division", the words "Chief Commissioner, Tripura" shall be substituted.

15. Section 27 shall be omitted.

16. In section 34 the following proviso shall be added at the end namely:—

"Provided that the Collector shall pay compensation to the owner for the use or removal of such earth or other materials and in ascertaining such compensation shall take into account the estimated value of such earth or other materials."

17. For section 35, the following section shall be substituted, namely:—

"35. The Collector shall proceed in respect of any crops standing on such land to assess the damage done to such crops by ascertaining the nature and estimated value of the crops and shall pay adequate compensation to the persons interested; and his decision in this respect shall be final."

18. In section 37, the words "save in those cases in which the Collector has proceeded under the provisions of sections 12 and 13 of Bengal Act VI of 1873" shall be omitted.

19. In section 38—

(i) at the end of the 1st paragraph, the following paragraph shall be inserted, namely:—

"and the Collector after due enquiry shall assess compensation for the consequential damage, if any, and pay the same to the rightful claimant";

(ii) the proviso shall be omitted.

20. For section 42, the following section shall be substituted, namely:—

"42. The Chief Commissioner, Tripura, may at any time by a notification published in the Tripura Gazette direct that the provisions of section 47 and the following sections in this Part contained shall not apply to any embankment or embankments. Such notification shall not affect any works or repairs executed therein or in relation thereto under the provisions of section 18 or of section 31. All sums payable in respect of any works or repairs executed in or in relation to the embankment or embankments mentioned in the aforesaid notification, except under the provisions of section 18 or of section 31, shall be paid by the State Government".

21. For section 43, the following section shall be substituted, namely:—

"43. If at any time after the commencement of this Act, on enquiry made by the Collector as far as possible in accordance with the provisions of Part II of this Act it shall be found that it is unnecessary for public interests to retain any embankment or water-course, the Chief Commissioner, Tripura, may direct that the same shall be no longer retained;

Provided that the Chief Commissioner, Tripura, may restore the same if on any subsequent inquiry similarly conducted it shall appear to the Chief Commissioner, Tripura, that it is necessary so to do".

22. Sections 44 and 45 shall be omitted.

23. In section 53, the words "or under sections 26 to 29 of Bengal Act VI of 1873" shall be omitted.

24. In section 54, the proviso shall be omitted.

25. In section 58, the proviso shall be omitted.

26. In section 59, the words "except in respect of the said embankments etc." within brackets shall be omitted.

27. In section 61, for the words "Commissioner of the Division", the words "Chief Commissioner, Tripura", shall be substituted.

28. In section 66, the words "except in respect of the embankments etc." within bracket, occurring for the second time shall be omitted.

29. In section 70, for the words "the Bengal Public Demands Recovery Act, 1913", the words "the Tripura Public Demands Recovery Act (Act IV of 1326, Tripura Era)" shall be substituted.

30. Section 71 shall be omitted.

31. For section 72, the following section shall be substituted, namely:—

"72. Notwithstanding anything contained in section 70, any such sum shall be a first charge on the estate in respect of which it is apportioned, and such charge shall not be avoided by any sale, nor shall the joint liability of the entire estate for such sum be affected by any partition of the said estates which may subsequently take place".

32. In section 73, for the words "Commissioner of the Division", the words "Chief Commissioner, Tripura" shall be substituted.

33. For section 74, the following section shall be substituted, namely:—

"Every Zamindar or tenure-holder to whom any sum or instalment thereof is payable under an order made in pursuance of section 68 may recover the same with interest as aforesaid".

34. For section 84, the following section shall be substituted, namely:—

"84. Every order passed by the Collector in respect of applications under section 18, and every order passed under sections 11, 50, 52, or 68, shall be appealable to the Chief Commissioner, Tripura; but no appeal shall lie under this section against any order unless the same be presented within one month from the date of the order".

35. For section 85, the following section shall be substituted, namely:—

"85. All the powers of a Collector under this Act shall be exercised under the general control and orders of the Chief Commissioner, Tripura".

36. In section 86, for the words "a controlling authority" the words "the Commissioner, Tripura" shall be substituted.

37. In section 88—

(i) for the words "a Deputy Collector" occurring for the first time, the words "any senior officer subordinate to him" shall be substituted;

(ii) for the words "a Deputy Collector" occurring for the second time, the words "such officer" shall be substituted;

(iii) for the words "Commissioner of the Division", the words "Chief Commissioner, Tripura" shall be substituted.

38. Sections 91, 92, 93 and 94 shall be omitted.

39. Schedules I and II shall be omitted.

40. In schedule III, after the words and figures "Bengal Act II of 1882", the following words shall be inserted, namely:—

"as extended to Tripura".

ANNEXURE

The Bengal Embankment Act, 1882 (Bengal Act II of 1882) as modified by this notification.

BENGAL ACT II OF 1882

THE BENGAL EMBANKMENT ACT, 1882

An Act to amend the law relating to Embankments and water-courses

WHEREAS it is expedient to make better provision for the construction, maintenance and management of embankments and water-courses in the territories subject to the Lieutenant-Governor of Bengal; It is enacted as follows:—

PART I

PRELIMINARY

1. *Short title.*—This Act may be called the Bengal Embankment Act, 1882.

Local extent.—It extends to the whole of the State of Tripura and shall come into force at once.

3. *Interpretation.*—The following words shall, for the purposes of this Act have the meanings hereby declared, save where, from the context, a contrary intention appears:—

Collector.—"Collector" means the collector of the district of Tripura.

District.—"district" means the district of Tripura embracing the whole of the State throughout which the collector is authorised to exercise his ordinary functions.

Embankment.—"embankment" includes—

every bank, dam, wall and dyke made or used for excluding water from, or for retaining water upon any land;

every sluice, spur, groyne, training wall berm or other work annexed to, or portion of, any such embankment;

every bank, dam, dyke, wall, groyne or spur made or erected for the protection of any such embankment or of any land from erosion or overflow by or of rivers, tides, waves or waters;

and also all buildings intended for purposes of inspection and supervision:

Estate.—"estate" means any Taluq or share in Taluq included under one entry on the general register or touzi of revenue-paying Taluqs and of revenue free lands prepared and maintained or maintained in the Revenue Department, Tripura, or in the Divisional Offices thereof for the purpose of realisation of Government revenue or for purpose of record or for both.

"Land".—"land" includes interests in land and benefits arising out of land, and things attached to the earth or permanently fastened to anything attached to the earth.

"Public embankment".—"Public embankment" means an embankment maintained by the servant of the Crown.

"Public water course".—"public water course" means a water course under the charge of the servants of the Crown.

"Section".—"section" means a section of this Act.

"Tenure".—"tenure" includes all interest in land which are held permanently at a fixed rental, or which are held rentfree other than estates as above defined.

"The Engineer".—"the Engineer" means the Engineer in charge of the public embankments of the district or any part thereof or any Engineer specially appointed by the Provincial Government to perform the functions of an Engineer under this Act in respect of any tract of country or of any works.

"Water-course".—"water-course" includes a line of drainage, weir, culvert pipe or other channel, whether natural or artificial, for the passage of water.

"Zamindar".—"zamindar" means all or any of the holders of an estate; and where two or more zamindars are jointly holders thereof, they shall be jointly and severally liable under this Act.

Explanation.—For the purposes of Part VI the State Government shall be deemed to be the zamindar—

(a) of every estate of which the zamindari title is not vested elsewhere than in the Government;

(b) of every estate which is let in farm or held khas.

4. *Public embankments etc. to vest in Crown.*—Every public embankment and every public water-course, and all land, earth, pathways, gates, berms and hodges belonging to or forming part of or standing on, any such embankment, or water-course and every embanked tow path maintained by the State Government shall vest in the Crown for the purposes of the Province.

5. *Survey of lands hitherto used for obtaining earth for repairs.*—All plots or parcels of land which, before the commencement of this Act have been used for the purpose of obtaining earth or other materials for the repair of any public embankment, water-course or embanked tow path as aforesaid or which by agreement have been substituted for such land, shall be deemed to be at the disposal of the Provincial Government for such purpose:

Provided that the Collector shall pay compensation to the owner for the use or removal of such earth or other materials and in ascertaining such compensation shall take into account the estimated value of such earth or other material.

The Collector may cause all such plots or parcels to be ascertained, surveyed and demarcated.

6. *Notification.*—The Chief Commissioner may, from time to time, by notification in the Official Gazette declare the limits of any tract within which the provisions of clause (b), section 76, shall take effect;

and the said provisions shall take effect one month after the publication of such notification.

As soon as possible after the said publication, the Collector shall cause a translation of the notification in the vernacular to be published in the manner prescribed in section 80.

PART II

POWERS OF COLLECTOR AND PROCEDURE THEREON; EMBANKMENT COMMITTEE

7. *Power of Collector.*—Subject to the provisions of Part III, whenever it shall appear to the Collector that any of the following acts should be done, or works executed, that is to say;

Taking charge of embankment by Government.—(1) that any embankment which connects public embankments, or forms by junction with them part of a line of embankments or that any embankment or water course which is necessary for the protection or drainage of the neighbouring country should be taken charge of and maintained by the officers of Government;

Removal of embankment or obstruction.—(2) that any embankment, or any obstruction of any kind, which endangers the stability of a public embankment or the safety of any town or village, or which is likely to cause loss of property by interfering with the general drainage or the flood drainage of any tract of land, should be removed or altered;

Changing line of embankment.—(3) that the line of any public embankment should be changed or lengthened, or that any public embankment should be renewed, or that a new embankment should be constructed instead of any public embankment, or that any embankment should be constructed for the protection of any lands or for the improvement of any water course or that a sluice in any public embankments should be made;

Improvement of drainage.—(4) that any sluice or water-course should be made, or that any public water course should be altered for the improvement of the public health, or for the protection of any village or cultivable land;

Alteration of roads and construction of water-courses.—(5) that any road which interferes with the drainage of any tract of land should be altered or that any water-course under or through such road should be constructed;

he shall cause to be prepared estimates of the cost of such works, including such proportion of the establishment charges as may be chargeable to the works in accordance with the rules for the time being in force under this Act, or as may be especially ordered by the Chief Commissioner together with such plans and specifications of the same as may be required. He shall also cause to be prepared from the survey map of the district a map showing the boundaries of the lands likely to be affected by the said acts and works, and he shall cause a general notice to be given of his intention to cause such works to be executed.

8. *Form of notice.*—Such general notice shall as far as possible be in the form, and state the particulars mentioned, in Schedule III to this Act annexed; and to it shall be annexed a list of all estates and villages, as far as is known, which are likely to be affected by the proposed work and to be chargeable in respect of the expenses of executing the same; and a copy of the said estimates, specifications and plans, together with a copy of the map as aforesaid, shall be deposited in the office of the Collector, and shall be open to the inspection of any persons interested, who shall be allowed to take copies thereof.

9. *Proclamation to be published for thirty days.*—Every such general notice shall be published in the manner provided by section 80 not less than 30 days before the day appointed for hearing the persons interested.

10. *Hearing of objections to works.*—The Collector shall, on the day appointed for the hearing, or on any subsequent day to which the hearing may be adjourned, hold an inquiry and hear the objections of any persons who may appear, recording such evidence as he may deem necessary

11. *Order after inquiry.*—After holding such inquiry the Collector shall proceed as follows, that is to say:—

(a) if he considers that the proposed act of work, or any modifications of the same, should not be done or executed, he shall record his opinion to that effect;

(b) if he considers that the proposed act of work, or any modification of it, should be done or executed he shall submit a report to the Chief Commissioner.

14. *Order of the Chief Commissioner.*—On receipt of the report forwarded by the Collector the Chief Commissioner shall proceed to consider the same and may order that the proposed act or the proposed work, or any modification thereof be done or executed.

Every such order shall be notified in the Official Gazette.

15. Notwithstanding anything contained in this Part, the Chief Commissioner may by a special order passed in respect of any act or work specified in section 7, or by a general order in respect of any class of such acts or works authorised the Collector, after holding such inquiry as is prescribed in section 10, without previous reference to any superior authority to pass an order that such act or work or any modification thereof may be done or executed.

16. Alteration of rail roads and construction of water courses Rep. by the Indian Railways Act 1890 (IX of 1890).

17. *Procedure of Collector.*—Whenever an order shall have been passed in cases falling under section 7, clause (5) directing that any road which interferes with the drainage of any tract of land be altered, or that any water-course be constructed under or through such road the collector may require the person in charge of such road to make such alteration or construct such water-course, and in the event of such person failing to comply with such requisition in such manner and within such time as the Collector shall prescribe the Collector may cause the road to be altered or the water-course to be constructed by the officers of Government.

Expenses of alteration or construction.—The expenses of such alteration or construction shall be borne by the person in charge of the said road so far as the same shall have been incurred on account of insufficient provisions having being made at the time of the construction of the said road for the natural drainage then existing, and the remainder of the expense, if any, shall be charged upon and recovered from, the proprietors of the lands benefited in accordance with the provisions of this Act. If any dispute arises as to the apportionment of expenses under this clause between the person in charge of a road and the proprietors of the lands benefited, the dispute shall be decided by the Chief Commissioner whose decision shall be final.

18. *Application for new sluices, embankments or drainage.*—(a) If any person desires that a sluice be made in any public embankment for the purpose of drainage or irrigation.

(b) or, if within any tract of country which has been included, within a notification under section 6, any person desires that any new embankment be erected, that any existing embankment be lengthened, enlarged, repaired or removed, or that the line of any embankment be altered, or that any new water course be made or that any watercourse be obstructed or diverted,

he may make an application in writing to the Collector.

The application shall contain such particulars of the land likely to be affected by the work as may enable the Collector to judge of the advantage which may be derived from the project.

If it should appear to the Collector that the work applied for is one which may probably be executed with advantage the procedure mentioned in the 7th and following sections of this Act shall be followed in respect of the proposed work.

19. *Power to remove houses, etc.*—Whenever the Collector after considering any report of the Engineer or otherwise, shall be of opinion that the removal of any trees, houses, huts or other buildings, situated between a public embankment and the river is necessary. or the land is required for widening an existing embanked. tow-path, or for constructing a new embanked two path, he shall make a report to that effect to the Chief Commissioner, Tripura accompanied by a detailed statement of the trees, houses, huts or other buildings to be removed, or of the land required.

Such report shall be submitted in order that proceedings may be taken for obtaining possession of such trees, houses, huts and buildings or land in accordance with the provisions of the Land Acquisition Act, 1894, or other law for the time being in force for the acquisition of land for public purposes.

21. *Chief Commissioner may appoint Embankment Committee.*—The Chief Commissioner may, if it think fit appoint an Embankment Committee for any district and may from time to time appoint and accept the resignation of the members of such Committee and direct that any person shall cease to be a member thereof.

22. *Consultation of Committee by Collector.*—The Chief Commissioner may from time to time direct that any such Committee shall be consulted by the Collector in the discharge of any function or the performance of any duty imposed on him by this Act; and by a notification published in the Tripura Gazette may from time to time direct that any such function or duty shall be performed or discharged by such Committee.

23. *Business of Committee.*—The business of every such Committee shall be conducted under such rules as the Chief Commissioner may from time to time make in that behalf.

24. *Reference to Collector.*—Whenever, in any matter on which the Chief Commissioner has directed that the Collector shall consult the Committee, the Collector may differ from the Committee he shall, if so required by the Committee submit the question to the Chief Commissioner of Tripura for decision, with copies of any remarks which may have been recorded by the Committee or any members thereof.

PART III

PROCEDURE IN CASES OF IMMINENT DANGER TO LIFE OR PROPERTY.

25. *Proceedings in emergencies.*—Whenever the Collector shall be of opinion that the delay in the execution of any work occasioned by proceedings commenced by a general notice under the 7th and following sections of this Act would be attended with grave and imminent danger to life or property, he may forth with cause the execution of such work to be begun in anticipation of the completion of such proceedings:

Provided that he shall without delay cause to be prepared the estimates, specifications and plans of the proposed works, together with a copy of the map as provided in section 7, and shall cause general notice to be given that the work mentioned therein has already been commenced; and thereupon such proceedings and inquiries shall be had as in and by Part II of this Act are directed.

26. *Restoration of embankments, etc.*—Wherever it may have been determined in the final order to be passed on any such inquiry that anything done by the Collector or by the Engineer under the last proceeding section was unnecessary, any person who shall have sustained damage by the execution of such works shall receive compensation from the Provincial Government to be assessed according to the provisions contained in Part V of this Act, and on receipt of any application to that effect by the Collector from any such person affected the land or the embankments or drainage shall, so far as any alteration thereof shall appear to have been unnecessary, be at the expense of the Provincial Government restored as nearly as possible to the state in which they were when the Collector commenced to act under the provisions of this Part.

PART IV

POWERS OF THE ENGINEER

28. *Engineer subject to control of Collector.*—The powers conferred on the Engineer under this Act, shall be exercised subject to the general control and orders of the Collector.

29. *Power to Engineer to act in urgent cases.*—In cases in which the Engineer may be of opinion that delay for the purpose of obtaining the orders of the Collector would be attended with grave and imminent danger to life or property, the Engineer may exercise the powers conferred on the Collector by section 25.

The Engineer shall forthwith report to the Collector any action taken by him under this section and shall be guided by any instructions which he may receive from the Collector in respect thereof.

30. *Power to make repairs.*—The Engineer may make any repairs in, and may do all acts necessary and proper for the maintenance of, any public embankment, public water-course or any other work executed or taken charge of under the provisions of this Act or of any previous similar Act.

31. *Power to make temporary roadway, water-course or dam.*—Whenever any person desires that a temporary roadway should be made over, or that a temporary water-course should be made through, any public embankment, or that a temporary dam should be constructed in any embanked river or public water-course, he shall apply to the Engineer, or to any person who has been appointed in that behalf by the Engineer.

Such Engineer or person shall communicate the application with his opinion to the Collector, and shall await the Collector's order in respect thereof, unless he thinks that there is special reason for the immediate execution of the work, in which case he may execute the same without waiting for the orders of the Collector.

If the proposed work is to be executed by an officer of the Crown, the applicant, before the commencement of the work, shall deposit the amount estimated by the Engineer to be necessary to defray the expenses of, and incidental to, making and removing such roadway, or of, and incidental to, making, closing or removing such water-course or dam.

If the amount deposited is found afterwards to exceed the amount required, such excess shall be returned to the said applicant.

32. *Sluices to be opened or shut under authority of the Engineer.*—Sluices constructed in any public embankment shall be opened or shut only by or with the general or special permission of the Engineer or of the officer in the immediate charge of the embankment, under such orders, either general or special, as he may receive from the Engineer.

33. *Power to enter and survey land etc.*—It shall be lawful for the Engineer, or any person whom he may authorize in that behalf, in order to carry out any of the purposes of this Act—

to enter upon, and survey, and take levels of any land;

to dig or bore into the sub-soil;

to do all other acts necessary to ascertain whether the land is adapted to the purposes projected by such Engineer or by the Collector;

Power to make out line.—To set out the boundaries of the land proposed to be taken and the intended line of the work proposed to be made thereon;

to mark such levels, boundaries and line, by placing marks and cutting trenches;

Power to make land.—And where otherwise the survey cannot be completed or the levels taken, to cut down and clear away any part of any standing crop, fence or jungle;

Previous notice of entry.—Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days notice in writing of his intention to do so.

Payment for damage.—The Engineer or other person so authorized shall at the time of such entry tender payment for all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so tendered, he shall at once refer the dispute to the decision of the Collector, and such decision shall be final.

34. *Power to take earth from lands.*—Whenever it is deemed requisite to repair any embankment or water-course, or embanked tow-path maintained by Chief Commissioner, it shall be lawful for the Engineer, or any person authorized in that behalf, to enter in and upon the lands mentioned in section 5, and take possession of, appropriate and remove any earth or other material therefrom, and use the same for the purposes of such repairs:

Provided that the Collector shall pay compensation to the owner for the use or removal of such earth or other materials and in ascertaining such compensation shall take into account the estimated value of such earth or other materials.

35. *Procedure where crops on such lands.*—The Collector shall proceed in respect of any crops standing on such land to assess the damage done to such crops by ascertaining the nature and estimated value of the crops and shall pay adequate compensation to the persons interested; and his decision in this respect shall be final.

36. *Acquisition of land made permanently unfit for cultivation.*—When any such land is rendered permanently unfit for cultivation by any such act as aforesaid, the Chief Commissioner shall, upon application for that purpose made by the owner thereof, acquire such lands under the provisions of the Land Acquisition Act, 1870, or other law for the time being in force for the acquisition of land for public purposes.

PART V.

ACQUISITION OF LANDS AND COMPENSATION

37. *Acquisition of land.*—Whenever, in the course of proceedings under this Act it appears that land is required for any of the purposes thereof proceedings shall be forthwith taken for the acquisition of such land in accordance with the provisions of the Land Acquisition Act, 1894 or other law for the time being in force for the acquisition of lands for public purposes.

38. *Compensation for consequential damage.*—Subject to the provisions of section 5, whenever any land other than land required or taken by the Engineer, or any right of fishery, right of drainage, right of the use of water or other right or property, shall have been injuriously affected by any act done or any work executed under the due exercise of the powers or provisions of this Act, the person in whom such property or right is vested may prefer a claim by petition to the Collector for compensation:

and the Collector after due enquiry shall assess compensation for the consequential damage, if any and pay the same to the rightful claimant.

39. *Limitation to claim for compensation.*—No claim under the last preceding section shall be entertained which shall be made later than two years next after the completion of the work by which such right is injuriously affected.

40. *Procedure for determining compensation.*—When any such claim is made, proceedings shall be taken in view to determine the amount of compensation, if any, which should be made and the person to whom the same should be payable, as far as possible, in accordance with the provision of the Land Acquisition Act, 1894 or other law for the time being in force for the acquisition of land for public purposes.

41. *Matters to be considered in determining compensation.*—In any such case which is referred to the Judge and assessors for the purpose of determining whether any, and, if so, what amount of compensation should be awarded, the Judge and assessors shall take into consideration—

First, the market-value of the property or right injuriously affected at the time when the act was done or the work executed;

Secondly, the damage sustained by the claimant by reason of such act or work injuriously affecting the property or right;

Thirdly, the consequent diminution of the market-value of the property or right injuriously affected when the act was done or the work executed;

Fourthly, whether any person has derived, or will derive benefit from the act or work in respect of which the compensation is claimed, or from any work connected therewith, in which case they shall set off the estimated value of such benefit if any against the compensation which would—otherwise be decreed to such person.

Matters not to be considered in determining compensation.—But the judge or assessors shall not take into consideration—

First, the decree of urgency which has led to the act or work being done or executed;

Secondly, any damage sustained by the claimant, which if caused by a private person, would not in any suit instituted against such person justify a decree for damages.

PART VI

COST OF WORKS, PROCEEDINGS, ETC.

42. The Chief Commissioner, Tripura may at any time by a notification in the Tripura Gazette direct that the provisions of section 47 and the following sections in this Part contained shall not apply to any embankment or embankments. Such notification shall not affect any works or repairs executed therein or in relation thereto under the provisions of section 18 or of section 31. All sums payable in respect of any works or repairs executed in or in relation to the embahkment or embankments mentioned in the aforesaid notification, except under the provisions of section 18 or of section 31, shall be paid by the State Government.

43. If at any time after the commencement of this Act, on enquiry made by the Collector as far as possible in accordance with the provisions of Part II of this Act, it shall be found that it is unnecessary for public interests to retain any embankment or water-course, the Chief Commissioner, Tripura, may direct that the same shall be no longer retained:

Provided that the Chief Commissioner, Tirpura, may restore the same if on any subsequent inquiry similarly conducted it shall appear to the Chief Commissioner, Tripura, that it is necessary so to do.

46. *Contribution may be discontinued if it be found unnecessary for the public interest to maintain the embankments.*—If at any time on an inquiry made by the Collector as far as possible in accordance with the provisions of Part II, it shall be found that it is unnecessary for the public interest to retain any embankment in either of the said parganas, the Provincial Government may direct that such contribution shall cease in respect of such pargana:

Provided that such contribution shall again be made in accordance with the provisions herein before contained, if it shall appear to the Provincial Government on the report of and inquiry similarly conducted, that the maintenance of any embankment in such pargana has again become necessary for the public intenest

47. *Estimates and specifications to be prepared.*—Subject to the provisions of Part III of this Act, before the collector or the Engineer undertakes, under the provisions of his Act, the execution of any repairs or of any work other than any new work of which the estimates, specifications and plans have been prepared and deposited in the Collector's office for public inspection as provided in section 7, specifications and estimates of the expenses to be incurred in respect of the repairs or works, including such proportion of establishment charges as the Chief Commissioner shall direct, shall be prepared by the Engineer.

48. *Preparation of further estimates and specifications.*—Whenever it appears that the actual expenses to be incurred in respect of any work will exceed by one-tenth any estimates of such work which may have been transmitted to the office of the Collector under the next succeeding section the Engineer shall forthwith prepare further estimates, and if necessary, further specifications.

49. *Estimates and specifications to be open to inspection.*—Copies of all specifications and estimates prepared under the two last preceding sections shall be transmitted to the office of the Collector, together with vernacular translations thereof, or such abstracts thereof as the Chief Commissioner may from time to time direct, and may be examined by any person interested in such works and repairs.

50. *Notice of receipt of estimates and specifications.*—A general notice of the receipt of any such specifications and estimates shall be published in the manner prescribed in section 80, and in such general notice shall be specified all estates chargeable for, or likely to be affected by, the said works or repairs. Special notices shall also be served in respect of every estate in which the area liable to the assessment of the apportioned charge is likely to exceed one hundred acres; or, instead of causing a general notice to be published the Collector may cause special notices to the same effect to be served in respect of every estate chargeable for, or likely to be affected by, the said works and repairs. Should any objection

in regard to such specifications and estimates be preferred by any such person within a period of one month from the date of service of such notice, the Collector shall pass such orders as may appear to him reasonable and proper.

51. *Preparation of accounts and Engineer's certificate of expenses.*—The accounts of the actual expenses incurred in executing any works or repairs or of any portion of the acutal expenses with which the Collector may determine to deal separately under this and the following sections, shall be prepared as soon as possible after the completion thereof.

The Engineer shall sign a certificate stating the amount of all such expenses, and specifying the boundaries of the lands which are benefitted or affected by the said works or repairs, and stating generally how and to what extent the lands so specified, or any parts of them, are affected.

Any such certificate may be amended at any time before the Collector has made an order charging or apportioning the amount under section 58.

On receipt of such certificate or amended certificate, the Collector shall cause a statement to be prepared of the villages of which any lands are benefited or protected by such works and repairs, and of the estates to which they belong, and, except as otherwise in this Act provided, the zamindars of such estates and villages shall be liable to pay the said amount.

Copies of the said account, certificates and statements shall be deposited in the office of the Collector and may there be examined by any person interested.

52. *Notices and inquiry into objections.*—General notice of the receipt and deposit of such accounts, certificates and statements in the office of the Collector shall be given.

Special notices thereof shall also be served in respect of every estate in which the area liable to assessment of the apportioned charges exceeds one hundred acres; or, instead of causing a general notice to be published, the Collector may cause special notices to the same effect to be served in respect of every estate and tenure on or among the zamindars or tenure-holders of which any sum is charged or apportioned; and if, within one month of such general notice being given, or of such special notice (if any) being served on him, any interested person shall object to the accounts on the ground either that the work charged for has not been performed, or that the whole sum charged has not been expended, or that the rates of charge are higher than those mentioned in the estimates, the Collector shall inquire into such objection, and pass orders thereon.

53. *Total sum payable.*—The Collector shall add to the amount appearing in the said certificate all sums which have been paid or have become payable in respect of the said works and repairs whether as compensation, costs and expenses under, and incidental to any proceedings taken or directed to be taken under Part II or Part V of this Act as cost of making of surveys and plans, as cost of preparing the estimates, accounts, certificates and statements as cost of the issuing and service of notice up to date, or on any other account, and shall then make an order specifying the total sum found payable, and in respect of works done under section 17 and section 31 the persons by whom or in respect of other works, the estates in respect of which the same is payable to him. If the order is made in respect of work done under section 17 or section 31, the same shall forthwith be served upon the party or parties liable to pay; otherwise the Collector shall proceed under the provisions in the next chapter contained.

Interest.—Interest may be charged upon any sum paid as compensation from the date of payment thereof at five per centum, or as such rate, not exceeding five per centum per annum, as the Chief Commissioner may from time to time determine.

2—LIABILITY FOR THE COSTS, AND APPORTIONMENT THEREOF

54. *Parties liable to pay.*—The total sum aforesaid, save so far as is otherwise provided in this Act shall be paid to the Collector by the zamindars of the estates in which are situated the lands benefited or protected by the repairs or works executed:

55. *Recovery from under-tenants.*—Every zamindar, who is liable under the last preceding section for the payment of the whole or a portion of such total sum, shall be entitled to recover from the holder of every tenure held immediately under him and from the holder of any land which is declared under the provisions of section 60 to form part of his estate, the sum apportioned to such tenure or land by the Collector under the provisions of section 59.

And, similarly, every tenure-holder shall be entitled to recover from the holder of any tenure subordinate to his own and from the holder of any land declared under section 60 to form part of his tenure, the sum apportioned to such subordinate tenure or land by the Collector, under the said provisions.

56. *Notice to be given before apportionment.*—So soon as the total sum payable as aforesaid has been ascertained, the Collector shall cause general notice to be given specifying the estates in respect of which any portion of such total sum will be chargeable, and special notices to be served in respect of every estate in which the area chargeable exceeds one hundred acres; or, instead of causing a general notice to be published, the Collector may cause special notices to the same effect to be served in respect of every estate and tenure on or among the zamindars or tenure-holders of which any sum is charged or apportioned.

Such notices shall make it known that an inquiry will be held at a day and place therein named for the purpose of apportioning amongst the zamindars and tenure-holders the said total sum, with interest and the cost of apportionment.

57. *Names of tenure-holders.*—In any such inquiry the Collector shall take down in writing the names of all persons who may claim, or who may be alleged by any party interested to be holders of tenures within any of the estates mentioned in such notice. In default of appearance of any such person, the Collector shall issue and serve a notice calling on him to appear at the date and place therein mentioned, and to show cause against being included in the order of apportionment to be made therein, and shall adjourn the inquiry till such date.

58. *Apportionment amongst zamindars.*—At such or any subsequently adjourned inquiry, the Collector, if there be only one estate liable, shall charge the zamindar thereof with the total amount payable; and if there be two or more estates, he shall apportion the same amongst the zamindars thereof, either—

(a) rateably in proportion to the respective benefits derived by such estates from such works or repairs; or

(b) in proportion to the areas of the lands benefited or protected thereby, and comprised within such-estates respectively; or

(c) with the sanction of the Provincial Government in proportion to the amount of revenue payable for such estates respectively;

59. *Apportionment amongst tenure-holders.*—The Collector shall in like manner charge or apportion the amount payable in respect of each estate upon or amongst the holders of the tenures therein rateably in the propotion of benefits so received or of area so benefited or protected, first deducting therefrom such sum as, on the like principle of proportion, is payable in respect of such portion of the estate as is not included within any tenure.

60. *Provisions as to lands held without payment of rent not being estates.*—All lands held without payment of rent, not being estates, may, for the purposes of this Act, be deemed to form part of any estate or of any tenure within the local boundaries of which they are included; and if they are not included within the local boundaries of any estate, then to be a part of such conterminous estate as the Collector in whose district such conterminous estate is situated shall, by an order under his seal and signature, declare.

61. *Amount apportioned payable by instalments.*—The amount charged to or apportioned on any estate or tenure shall be payable in equal instalments on such days as the Chief Commissioner, Tripura shall direct: Provided that no instalment shall exceed four annas for every acre of land in respect of which the same is payable, and that not more than four instalments shall be payable in any one year.

61A. *Interest-payable on amount apportioned.*—Interest shall be charged from the date of apportionment on the amount charged to or apportioned on any estate or tenure, less any instalment of such amount paid from time to time. The interest shall be at the rate of five per centum or at such rate, not exceeding five per centum per annum as the Chief Commissioner may from time to time determine.

62. *Apportionment of further expenses.*—If after the apportionment of the expenses of any works and repairs as above prescribed any expenses not included in such apportionment shall be found to have been paid or to have become payable on account of the said works or repairs, whether as compensation or otherwise, the Collector may proceed to apportion such further expenses in the manner in this Part provided.

63. *Alternative power of apportioning estimated expenditure for a series of years.*—Instead of the procedure prescribed above for charging upon, and recovering from zamindars, the expenses actually incurred in the repairs and maintenance of public embankments and water-courses and the works connected therewith, the Chief Commissioner may, by an order to be published in the Official Gazette,

direct that an estimate be made of the expenses to be incurred in respect of such repairs, maintenance and works during any number of years, not exceeding thirty, which it may think fit;

and may by a subsequent order fix the total sum payable during such number of years by the zamindars of the estates benefited by such repairs, maintenance and works:

Provided that no order fixing such total sum shall be passed by the Chief Commissioner until three months after the amount of such estimate shall have been published in the Tripura Gazette, and by a general notice calling on all persons interested to prefer to the Collector any objections they may think proper against such amount being fixed as the total sum. Every such objection shall be submitted to the Chief Commissioner for its consideration.

64. *Period included in the last section, what to include.*—The period fixed in any order under the section last preceding may include also years previous to the commencement of this Act:

Provided that in such case the total sum mentioned in the said section shall be calculated by adding the amounts actually expended before the making of such order to the estimate of expenses to be incurred during the rest of the period included in such orders.

65. *Works in respect of which such estimate may be made.*—The total sum mentioned in section 63 or in section 64 may be made recoverable in respect of the expenses of repairs and maintenance, and the expenses of works connected with the repairs and maintenance—

(a) of any protective works which may be specified in such orders;

(b) of all the public embankments and water-course in any district; or

(c) of all the public embankments and water-courses within any tract of country specified in the order of the Chief Commissioner and any such tract may contain the whole or portions of any one or more districts;

and no further sum shall be recoverable during such period in respect of the expenses of such repairs, maintenance and works connected therewith save so far as any such works or repairs are executed under the provisions of section 18 or of section 31.

But such total sum shall not include the expenses of executing any new works which may be undertaken under the provisions of this Act within any district or tract as aforesaid.

Recovery of cost of new works.—Whenever the Chief Commissioner shall declare that any work executed or to be executed within such district or tract is new work within the meaning of this section, the cost of executing such work and of maintaining the same shall be payable by the zamindars to the Collector under the provisions of this Act in addition to any total sum fixed under section 63 or section 64 as payable by them.

66. *Mode of apportionment.*—On publication of any order of the Provincial Government under section 63 the Collector shall proceed to charge or apportion the said total sum upon or among the zamindars as provided in section 58 among tenure-holders who are liable to pay the same, as above provided.

67. *Payment of sum apportioned.*—The sum so apportioned in respect of any estate or tenure on account of any such period as is mentioned in section 63 shall be payable in equal portions in each of the years included in such period, and each such portion if unpaid shall carry interest at five per centum, or at such rate, not exceeding five per centum per annum, as the Chief Commissioner may from time to time determine from the end of the year in which it is payable.

68. *Final order of apportionment.*—On the completion of any charge or apportionment under this Act the Collector shall make an order specifying the estates and tenures in respect of which any sum charged or apportioned is payable, and the sums payable in respect of each of the instalments of such sums, and the dates on which such sums are payable.

3—RECOVERY THEREOF.

69. *Publication of final order of apportionment.*—As soon as may be after any final order of apportionment is made, as provided in the section last preceding, the Collector shall cause copy of such order to be published with a general notice stating that the amounts apportioned on the zamindars in respect of estates are payable to the Collector, and the amounts apportioned on the tenure-holders in

respect of tenures are payable to the zamindars or superior tenure-holders. Instead of causing a general notice to be published the Collector may cause special notices to the same effect to be served in respect of every estate and tenure on or among the zamindars or tenure-holders of which any sum is charged or apportioned.

70. *Recovery of sums apportioned.*—If any such sum payable to the Collector, or any instalment thereof, be not pursuant to the said order, paid the same with interest may be recovered as arrears of a demand under the provisions of Tripura Public Demands Recovery Act (Act IV of 1326, Tripura Era), or, any similar Act for the time being in force.

71. *Omitted.*

72. *Liability of estate for sum apportioned.*—Notwithstanding anything contained in section 70 any such sum shall be a first charge on the estate in respect of which it is apportioned, and such charge shall not be avoided by any sale, nor shall the joint liability of the entire estate for such sum be affected by any partition of the said estate which may subsequently take place.

73. *Amount apportioned may be raised by leasing or mortgaging estate.*—If the Collector thinks it inexpedient to proceed for the recovery of such sum or any part thereof under the provisions of section 70, or having so proceeded shall have failed to realize the sum due, he may, with the sanction of the Chief Commissioner, Tripura, raise the amount necessary to discharge the sum or instalment remaining unpaid—

(a) by mortgaging the whole or any part of such estate,

(b) by letting in farm or managing by himself or another the whole or any part of such estate;

(c) partly by one of such modes and partly by another or others of them.

For the purposes of this section the Collector may exercise all the powers of the owner of such estate, and his signature shall be a good and sufficient signature to any document necessary to carry into effect the said purposes.

74. *Recovery by zamindars and tenure holders.*—Every zamindar or tenure-holder to whom any sum or instalment thereof is payable under an order made in pursuance of section 68 may recover the same with interest as aforesaid:

Provided that the right or interest of any person holding from the defaulter shall not be affected by any sale held under these provisions.

PART VII

PENALTIES

75. *Penalty for obstructing persons in exercise of powers conferred by Act.*—Whoever wilfully obstructs any person duly authorised under this Act in removing or levelling any embankment, house, hut or other building, or in the lawful exercise of any of the powers in this Act conferred, shall, in case such obstruction shall not amount to an offence within the provisions of the Indian Penal Code, be liable to imprisonment of either description for any period not exceeding six months, at the discretion of the Magistrate, or to fine not exceeding two hundred rupees.

76. *Penalty for unauthorised interference with embankments or drainage.*—(a) Every person, who, in any of the territories to which this Act extends, without the previous permission of the Collector, shall erect, or cause or wilfully permit to be erected, any new embankment, or shall add to any existing embankment, or shall obstruct or divert, or cause or wilfully permit to be obstructed or diverted, any water-course, if such act is likely to interfere with, counteract or impede any public embankment or any public water-course;

Penalty for unauthorized interference with embankments or drainage in prohibited tract.—(b) every person who, within the limits of the tract included in any prohibitory notification under section 6, without the previous permission of the Collector, shall erect, or cause or wilfully permit to be erected, any new embankment, or shall add to any existing embankment, or shall obstruct or divert, or cause of wilfully permit to be obstructed or diverted any water-course; and

Penalty for abetment of such acts.—(c) every person who shall abet any such act as is mentioned in clauses (a) and (b),

shall be liable, on conviction, to a fine not exceeding five hundred rupees or in default of payment to imprisonment of either description for a period not exceeding six months.

Exception.—This section shall not render unlawful the repair of a breach or cut in an embankment so as to restore the embankment to the same dimensions as it had immediately before such breach occurred or cut was made; provided that—

(a) such cut was not made under the orders of the Collector;

(b) such repair is made within one year after such breach occurred or cut was made; if, however, the repair cannot be completed within this period, the sanction of the Collector shall be obtained to the completion of the work;

(c) such breach or cut forms a gap or, if unrepaired, may form a gap between two portions of an existing embankment which were continuous before the breach occurred or cut was made;

(d) the part of the embankment in which the breach occurred or cut was made was not erected or added to in contravention of this section or of any other provision of law for the time being in force.

77. *Penalties for injuring embankments etc.*—No person shall, without due authority, cut through or attempt to cut through, any public embankment, or destroy, or attempt to destroy, any such embankment, or open or shut or obstruct any sluice in any such embankment or any public water-course; and every person who shall commit any breach of the provisions of this section shall, in case the act shall not amount to mischief within the meaning of the Indian Penal Code, be liable to imprisonment of either description for a term not exceeding one month or to a fine not exceeding two hundred rupees.

78. *Penalties for diverting rivers or permitting cattle to graze on embankments etc.*—Every person who shall make any dam or other obstruction for the purpose of diverting or opposing the current of a river or water course wherein or whereon there are public embankments, without the permission of the officer in immediate charge of the embankments.

or shall refuse or neglect to remove any such dam or obstruction so made by him when required to remove it by the Engineer, or without the permission of the Engineer previously obtained shall cut or otherwise alter the banks of any embanked river or water course, or remove the earth from any public embankment, or drive stakes into it, or by any other wilful act destroy or diminish the efficiency of such embankment;

and every person who without such permission shall cause or knowingly and wilfully permit any cattle to graze upon any such embankment or tether or cause or wilfully permit any cattle to be tethered upon any such embankment, or root up any grass or other vegetation growing on any such embankment,

shall be liable to imprisonment of either description for a term not exceeding six months or to a fine not exceeding two hundred rupees.

79. *Obstructions to be removed and damage repaired.*—Whenever any person is convicted of an offence under either of the three last preceding sections the convicting Magistrate may order that he shall remove the embankment or obstruction, or repair the damage, in respect of which the conviction is held, within a period to be fixed in such order.

If such person neglects or refuses to obey such order within the fixed period the Engineer may remove such embankment or obstruction or repair such damage, and the cost of such removal or repair shall be levied from such person in addition to any other penalty in the manner provided in sections 386, 387 and 389 of the Code of Criminal Procedure, 1898.

PART VIII.

MISCELLANEOUS.

80. *Mode of publishing proclamation and issuing notices.*—Every proclamation and general notice by this Act required to be issued or given shall be published by affixing a copy of the same in the office of every Collector, Sub-divisional Officer and Munsif within his jurisdiction, and at every police-station within the limits of which any lands affected by such proclamation or notice are known by the Collector to be situated; and by affixing copies of the same in conspicuous positions in such hats, bazars, towns, villages or other public places as the Collector may direct; and also by giving notice by beat of drum at such public places that such copies have been affixed and that one copy of the papers containing the information which is the subject of such proclamation or general noice is open to inspection by all concerned at the office of the Collector.

81. *Service of special notices.*—Every special notice or order by this Act required to be served shall be served,—

(1) by delivering a copy of the same to the person to whom it is directed, or, on failure of such service, by posting a copy on some conspicuous part of the house in which the said person resides, or by delivering a copy to any agent authorized to appear generally for the person to whom such notice or order is directed; or

(2) by sending a registered letter containing a copy of such notice or order directed to the said person at his usual place of abode, or at the place where he may be known to reside; or

(3) by posting a copy of the notice or order at the malcutcherry of the estate, village or tenure to which the same relates; or, if no such mal-cutcherry be found, on some conspicuous place on the said estate, village or tenure; or

(4) if the person on whom the notice or order is to be served is a zamindar, by delivering a copy thereof to the agent who shall have paid an instalment of revenue next before or who may pay the instalment next after the preparation of such notice or order, on behalf of such zamindar.

In all cases where two or more persons are holders of an estate or tenure, service under the last two clauses shall be deemed to be good and sufficient service on each and all of such persons.

82. *Power of Collector and Commissioner on inquiry and appeal.*—In any inquiry or appeal held under this Act, the Collector and the Commissioner shall respectively have the same powers as those conferred on Courts by the Code of Civil procedure 1908 of summoning and examining witnesses and compelling the production of documents.

83. *No proceeding to be impeached for mistake or want of form.*—No proceedings under this Act shall be impeached or affected by reason of any mistake in the name of any person thereby rendered liable to pay any sum of money or in the description of any estate or tenure or land in respect of which he is rendered liable to pay, provided the directions of this Act be in substance and effect complied with; and no proceedings under this Act shall for want of form be quashed or set aside in any Court of Justice.

84. *Appeal from orders.*—Every order passed by the Collector in respect of applications under section 18, and every order passed under sections 11, 50, 52 or 68 shall be appealable to the Chief Commissioner, Tripura; but no appeal shall lie under this section against any order unless the same be presented within one month from the date of the order.

85. *General control of Commissioner.*—All the powers of a Collector under this Act shall be exercised under the general control and orders of the Chief Commissioner, Tripura.

Every order passed by any of the said authorities shall be subject at any time to be varied or set aside by the Chief Commissioner, Tripura.

86. *Order to be final.*—Subject to the provisions of the two sections last preceding, every order passed by the Collector in respect of applications under section 18 and every order passed under sections 11, 50, 52 or 68 and every order passed by a controlling authority in respect of such order of a Collector shall be final, and not liable to be modified or altered otherwise than as expressly provided in this Act.

87. *Disposal of lands no longer required for embankments.*—Whenever the maintenance of any public embankment, or the retention of any land appropriated to the purposes thereof, may no longer be required, and the permanent relinquishment of the same may be deemed expedient, such land shall be restored by the Collector to the estate or tenure from which such land was originally taken on repayment of the compensation, if any, which was paid for such land when the same was taken for the purpose of the embankment.

If persons who are entitled to the restoration of any land under this section, or any of them refuse or neglect to pay such price within a reasonable time after demand, the same shall be sold by the Collector as a revenue-free holding for such price as he can obtain for the same.

All sums obtained for lands conveyed under the provisions of this section shall, after the payment of all expenses incurred on account of the same, be

applied to the payment of the cost of any new embankment or drainage-works, or of the expenses of maintaining any embankment or drainage-works affecting the said lands and other adjacent lands, in reduction of the amount chargeable upon the zamindars and tenure-holders of the lands benefited as hereinbefore provided, if any amount be so chargeable.

88. *Collector may delegate any of his powers.*—A Collector may delegate any of his powers under this Act to any senior officer subordinate to him; but from any order passed by such officer or to whom powers have been so delegated an appeal shall lie to the Collector if presented within thirty days of the date of the order.

Every such delegation of power shall be reported to the Chief Commissioner, Tripura.

89. *Jurisdiction.*—All offences created by this Act shall be inquired into and tried by a Magistrate of the first or second class.

90. *Power to make alter and cancel rules.*—The Chief Commissioner may from time to time make rules, consistent with the provisions of this Act, to regulate the following matters:—

(a) the proceedings of any officer who, under any provision of this Act, is required or empowered to take action in any matter;

(b) the business of embankment Committees;

(c) the cases in which the officers to whom and the conditions subject to which orders and decisions given under any provision of this Act, and not expressly provided for as regards appeal, shall be appealable;

(d) the person by whom, the time, place or manner at or in which anything for the doing of which provision is made in this Act shall be done;

(e) the amount of any charge made under this Act; and

(f) generally to carry out the provisions of this Act.

The Chief Commissioner may from time to time alter or cancel any rules so made.

Publication of rules.—Such rules, alterations and cancelment shall be published in the Official Gazette and shall thereupon have the force of law:

Provided that no rules shall be made by the Chief Commissioner under the powers conferred on it by this section until a draft of the same shall have been published in the Official Gazette for one month, after which time the Chief Commissioner may pass such rules as originally published or with such alterations, additions and omissions as it may think fit.

SCHEDULE III

(Referred to in section 8).

Notice is hereby given, as required by section 8, Bengal Act II of 1882 as extended to Tripura to all persons interested, that it appears to the Collector that the following work should be done; that is to say (here state the nature of the work and the purpose for which it is to be undertaken). For the execution of this work the undermentioned land will be required to be taken up:—

1 Pargana in which land is situated	2 Village in which land is situated	3 Area of land

Estimates of the proposed work, with the necessary specifications and plans, together with a copy of the survey map showing the lands likely to be affected by the said work, are open for inspection at this office by any interested person, who is allowed to take copies thereof.

The total probable cost of such work will be the sum of Rs. and the rate per acre of the area benefited or protected by the said work is estimated at Rs. .....

The following estates and villages will probably be affected by the work proposed (here set out a list of the estates and villages).

Any person interested and wishing to show cause against the execution of the works specified is hereby required to appear before the Collector for the purpose on the day of

The day of A.B.,
Collector of

[No. 43-J.]

New Delhi, the 14th April 1953

S.R.O. 728.—In pursuance of clause (1) of article 239 of the Constitution, the President hereby directs that the Chief Commissioner of Bhopal shall, subject to the control of the President and until further orders, exercise the powers and discharge the functions of the State Government under section 61 of the Code of Civil Procedure 1908 (V of 1908) in the State of Bhopal.

[No. 54-J.]

S. K. AYANGAR, Asstt. Secy.

ORDER

New Delhi, the 9th April 1953

S.R.O. 729.—WHEREAS the late Kalahandi Durbar collected a certain sum of money for contribution to the Viceroy's War Purposes Fund and the China Day Fund and whereas a balance of Rs. 34,663-14-2 out of the said collection has now been found undisbursed and is lying in deposit with the Government of Orissa in the Kalahandi Treasury;

AND WHEREAS one of the objects of the Viceroy's War Purposes Fund was to contribute to the Indian Red Cross Society and the St. John Ambulance Association (India Council);

AND WHEREAS the objects of the China Day Fund having ceased to exist the balance of the collection meant for contribution to that Fund may be transferred to the aforesaid bodies by the application of the *Cy-pres* doctrine;

Now, THEREFORE, in exercise of the powers conferred by sections 4 and 5 of the Charitable Endowments Act, 1890 (VI of 1890), the Central Government on the application and with the concurrence of the Government of Orissa hereby directs that the balance of Rs. 34,663-14-2 out of the collection for contribution to the Viceroy's War Purposes Fund and the China Day Fund, now lying in deposit with the Government of Orissa in the Kalahandi Treasury shall be vested in the Treasurer of Charitable Endowments for India in trust for the Indian Red Cross Society and the St. John Ambulance Association (India Council) on the following terms as to the application of the said sum, namely:—

The Treasurer of Charitable Endowments for India shall, as soon as may be after getting possession of the said sum of Rs. 34,663-14-2, divide and distribute the same equally between the Orissa State Branch of the Indian Red Cross Society and the Orissa State Centre of the St. John Ambulance Association (India Council) so that the sum falling to the respective shares of the said bodies shall be held by them as part of their general funds and applied by the respective bodies for the purposes for which their funds may be applied under the constitution of the respective bodies.

2. The Central Government hereby further directs that the previous publication required in the present case in respect of the sum meant for contribution to the China Day Fund, under rules 3 and 4 of the Charitable Endowments (Central) Rules, 1942, shall be dispensed with.

[No. 45-PB.]

C. GANESAN, Dy. Secy.

New Delhi, the 9th April 1953

S.R.O. 730.—In exercise of the powers conferred by Entry 3(b) of the Table annexed to Schedule I to the Indian Arms Rules, 1951, the Central Government specifies Yuvraj Pratap Chandra Singh Deb, member of the family of the Ruler of Hindol State for the purposes of that entry and directs that the exemption shall be valid only in respect of seven weapons *viz.*, three guns, three rifles, one revolver or pistol.

This Ministry's Notification No. 146-D, dated the 11th June 1952 is hereby cancelled.

[No. 46-D.]

S.R.O. 731.—In exercise of the powers conferred by Entry 3(b) of the Table annexed to Schedule I to the Indian Arms Rules, 1951, the Central Government specifies Tikayat Saubhagya Deb, member of the family of the Ruler of Talcher State for the purposes of that entry and directs that the exemption shall be valid only in respect of three weapons including not more than one rifle and one revolver.

[No. 47-D.]

S.R.O. 732.—In exercise of the powers conferred by Entry 3(b) of the Table annexed to Schedule I to the Indian Arms Rules, 1951, the Central Government specifies Kumar Surajmani Deo and Kumar Rudra Narayan Deo, members of the family of the Ruler of Athmalik State for the purposes of that entry and directs that the exemption shall be valid only in respect of three weapons including not more than one rifle and one revolver.

[No. 48-D.]

H. C. MAHINDROO, Under Secy.

MINISTRY OF INFORMATION & BROADCASTING

New Delhi, the 7th April, 1953.

S.R.O. 733—*Corrigendum.*—In section 3 of Part II of the *Gazette of India*, dated March 14, 1953, under the heading "Ministry of Information and Broadcasting", *omit* S.R.O. 449.

[No. 20(50)/51-F.II.]

C. B. RAO, Dy. Secy.

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